# The Safety Utopia
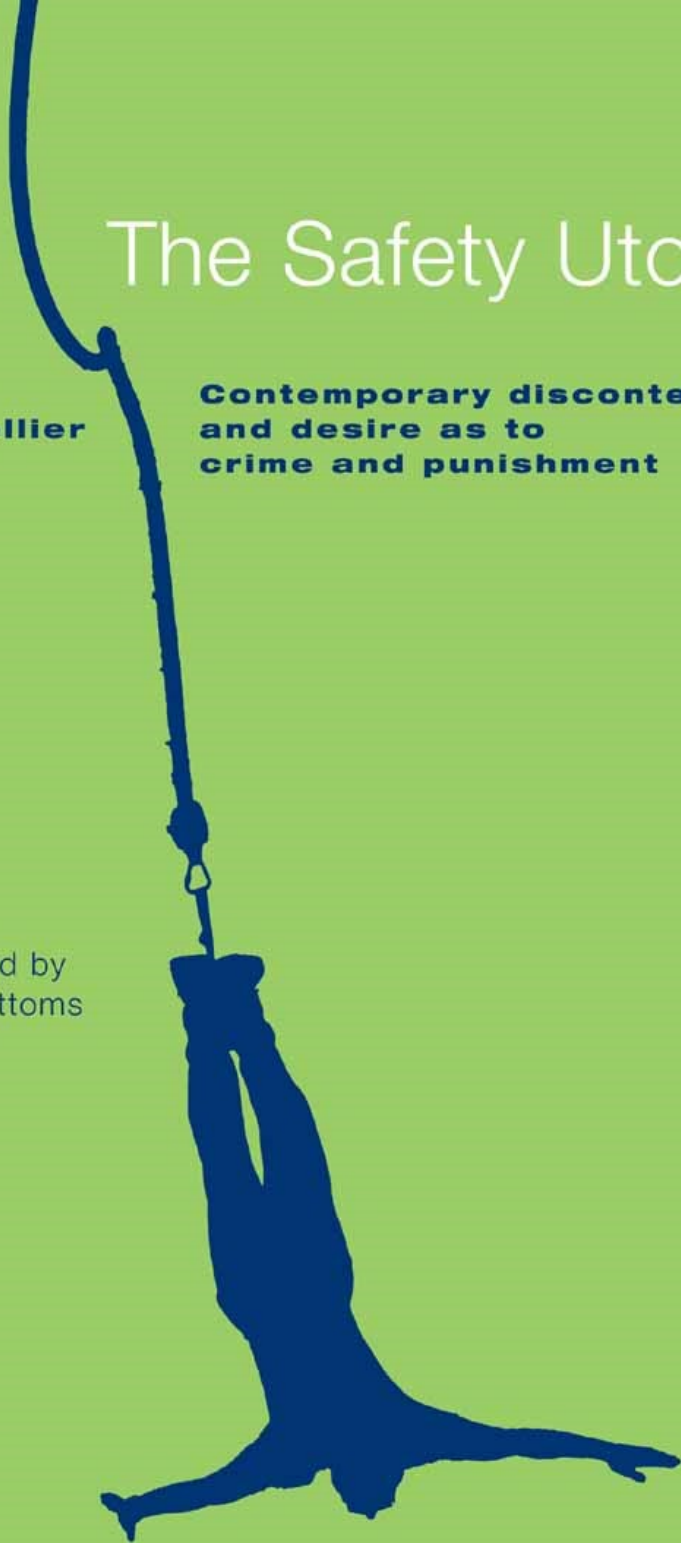
**Hans Boutellier**

**Contemporary discontent and desire as to crime and punishment**

With a Foreword by
Sir Anthony Bottoms

THE SAFETY UTOPIA

# THE SAFETY UTOPIA

Contemporary Discontent and Desire as to Crime and Punishment

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# PREFACE

My first encounter with the world of crime and punishment was more than two decades ago, and it has since undergone vast changes. No one could have foreseen that crime-related problems would occupy such a prominent position in cultural awareness. Crime is on the rise, the public attention devoted to it has increased even more, and its political importance has mushroomed. The major change in the 1990s was perhaps the transformation of crime into a safety issue. Crime is no longer a matter involving offenders, victims, the police and the courts, it involves everyone and any number of agencies and institutions from security companies to the local authorities and from schools to pub and restaurant owners.

Crime has become a much larger complex than the judicial system—a complex organized mentally and institutionally around this one concept of safety. In this book I make an effort to get to the bottom of this complex. It is the sequel to my dissertation *Crime and Morality—The Moral Significance of Criminal Justice in a Postmodern Culture* (2000), where I hold that the victim became the essence of crime in Western culture, and that this in turn shaped public morality. In the second half of the twentieth century, a personal morality based on an awareness of our own and other people's vulnerability, i.e. potential victimhood, succeeded the ethics of duty. In this book I expand this topic to include the meaning of safety in modern culture. What has shaped safety's central role and how does it affect society? The victimalized culture has given birth to a safety utopia, that is the insight underlying this book.

It has been a year and a half since my book was published in the Netherlands. It was received with unexpected enthusiasm, it was almost too much to hope for. The book did exactly what I wanted it to. It contributed towards the safety debate that reached a peak in 2002 in the Netherlands with the murder of the flamboyant politician Pim Fortuyn. Various readers commented on my perfect timing, but that was not the way I saw it at all. The book is the result of years and years of study and policy experience in the field of safety. I completed it at precisely the right moment, the time was ripe.

I felt it was important to put the whole commotion about crime and safety in the 1990s into the proper perspective, not by trivializing the problem but by putting it in a broader cultural context. I initially visualized a collection of the articles I have written since my Ph.D., but they are so widely varied and there are gaps and even occasional contradictions in the text. I felt a need for a more coherent approach to the safety issues, which I found in the *safety utopia* concept I have used

earlier (Boutellier, 2000). The safety debate goes beyond a need for protection or indignation about criminal offences—it becomes a utopian yearning generated by dissatisfaction with the complexity of contemporary society.

The utopian yearning is intertwined with the concept of safety in relation to crime. Every crime victim is an indication of the moral ambiguity of our times. Crime is modern-day society with the daggers drawn. In this context, it is essential to consider safety issues rationally and pragmatically. Underestimating or ignoring criminal injury may undermine society, but overreacting endangers the constitutional principles that make our freedom feasible. A utopia is fuelled by discontent and yearning, and as a true dream of power, it also entails illusions and a danger of totalitarianism. But the concept of utopia also invokes a spark of hope. Safety unites and as such it can also give society new impulses.

*Haarlem, May 2004*

# FOREWORD

When I am working in Sheffield, my regular drive to the university takes me past an inn with a large forecourt. Recently, large notices appeared on this forecourt, advertising the fact that on a certain day a bungee jump would be available there. Everyone was encouraged to come and try their luck at the thrill, the excitement, and the suppressed fear of jumping off a high platform with an elastic rope attached to them.

In the Introduction to this book, Hans Boutellier cites bungee jumping as an example of one of his central concepts, that of 'safe freedom'. For Boutellier, one of the key features of contemporary culture is a wish for freedom—freedom from many of the restrictions of our grandparents' moral codes, and freedom to enjoy ourselves in (for example) international travel and sexual experimentation. In part, this freedom is expressive and hedonistic—hence the appeal of bungee jumping. But, of course, the public assumes that the bungee-jumping apparatus is actually safe; that, indeed, it has been thoroughly tested by the relevant Health and Safety authorities. If, exceptionally, the apparatus fails and tragedy occurs, everyone is devastated. So, for Boutellier, the bungee jump exemplifies a desire for *safe, hedonistic freedom*. In his analysis, such a desire is pervasive in contemporary Western societies, and leads us simultaneously to wish for: *first*, the freedom to pursue our own lives, and our own excitements, without outdated restrictions; yet *secondly*, the desire that this freedom shall be pursued in a wholly safe environment. The demand for safety is based partly on scientific and technological factors (our food and water must be free from contamination, our medicines thoroughly tested), and partly on social factors (we do not want our freedom of association, and our enjoyment, to be spoilt by being assaulted, or by having our wallets stolen). Yet there are, of course, some potential points of tension in these dual desires, especially in the social sphere: as Boutellier puts it, sometimes 'people demand the enforcement of rules that they themselves do not want to adhere to'. Hence the concept. *The Safety Utopia*, which gives this book its title, and which is defined by the author as 'the unattainable pursuit of an optimum link between vitality [expressive freedom] and safety'.

As these brief remarks will already have made clear, *The Safety Utopia* belongs on the bookshelf alongside other social-scientific analyses of our times such as Anthony Giddens's *The Consequences of Modernity* (1990), Richard Ericson and Kevin Haggerty's *Policing the Risk Society* (1997) and David Garland's *The Culture of Control* (2001). All of these works are indeed cited in this text. Hans

Boutellier, however, places in the foreground not so much the structural transformations of so-called 'late modern societies', nor the 'control culture' of which Garland writes, but rather the changes that he perceives in the cultural and moral landscape.

Boutellier's focus on morality is one of the most distinctive features of his work, both here and in his earlier volume *Crime and Morality* (Boutellier 2000). For Boutellier, what is particularly important is that the perceived sources of morality have been revolutionised in the last half-century. Where once there was an accepted moral code within the hierarchical and indeed patriarchal structure of Dutch society, now ethics are seen as relativistic—each to his or her own moral views. The only brake on this relativism is what moral philosophers would call a negative version of the Golden Rule; that is, 'do not do to others what you would not wish them to do to you' (Honderich 1995, p. 321). So, the source of moral values comes to reside in *the suffering of the victim*—her physical pain, psychological distress or financial loss, which in other circumstances might be our pain, distress or loss. A little reflection will quickly show how closely the ideas of relativistic ethics and victim suffering are related to Boutellier's master-concept of the 'safety-utopia'.

I would like briefly to mention two specific matters raised in this book which will indicate its potential interest for criminologists in many countries. They will serve as illustrations of several other topics that I could have highlighted.

First, the chapter on sexual offences (chapter 3). There is no doubt that sexual mores have changed rapidly in most Western societies in the last half-century, as a comparison of a sample week's television output in 1954 and 2004 would quickly demonstrate. Sexual images are everywhere in our culture, and our attitudes to sex are now far more libertarian. Yet it is also the case that some kinds of sexual crimes—especially those involving children as victims—are among the most heavily condemned in our society. A couple of years ago I compiled (for a lecture to senior police officers) a list of all the new legislation on sexual offences and sexual offenders in England since 1990. As I am not a specialist on sexual offences, I had not until then fully appreciated just how busy our Parliament had recently been (under governments of both the main political parties) in creating fresh restrictions in this sphere. Sexuality and the response to it is indeed a prime example of the concept of 'safe freedom' in contemporary culture.

Secondly, I was intrigued to discover that in this book (chapter 5) the author has used the concept of *responsibilization*. He is referring to a process whereby, in The Netherlands, explanations of offending behaviour by criminologists, and in criminal policy, have tended to shift as we have moved from 'modernity' (fifty years ago) to today's 'late modernity'. In the era of moderity, Hans Boutellier argues, 'causality thinking' was dominant, 'leading in turn to the moral meaning of bad behaviour being relegated to the background'. More recently, certainly in criminal policy and sometimes also in criminology, people have taken the view that 'crime is not an effect, it is a choice'. What interested me especially about this analysis is that something very similar occurred in English youth justice policy in

the late 1990s, which led a British criminologist (John Muncie) to characterise this development by the very same English word (*responsibilization*) that the translator has used here, despite the fact that in English this word is very rare. (See Muncie 1999; for a fuller discussion of recent English youth justice policy, see Bottoms and Dignan 2004). It is a striking congruence, and one that highlights an important cross-national current of thought.

Of course, a book as wide-ranging as this one is bound to be in places a little speculative and/or controversial. Most readers, I suspect, will not find themselves in agreement with everything that the author says, and certainly that is true for me. But a Foreword is a place to whet the potential reader's appetite, not to offer a critical analysis. On a more suitable occasion, it would indeed give me great pleasure to debate with the author some of his arguments. Yet I would do this with both admiration and respect, since I have already found his earlier book very stimulating (see e.g. Bottoms 2002), and the present work builds most creatively on those foundations. Hence, for now, let me simply, and without reservation, exhort everyone who is interested in contemporary criminal policy and criminology to read this book. They will certainly gain many fresh insights from it.

As a final word, perhaps I might also be allowed to commend one further strand of the author's argument. Towards the end of his book, he contends that recently criminologists have too often become specialists in particular topics, and insufficiently concerned with the wider societal meaning and application of their research findings. He argues for a bolder criminology, and one which is willing to be more broad-brush in its 'formulation of coherence and desirability'. 'The field of criminology could be more important if it were aware of its intellectual potency', he argues. This is an important challenge for all of us who call ourselves criminologists.

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## References

Bottoms, A.E. (2002) 'Morality, Crime, Compliance and Public Policy' in A.E. Bottoms and M. Tonry (Eds) *Ideology, Crime and Criminal Justice* (Cullompton, Devon: Willan Publishing).

Bottoms, A.E. and Dignan, J. (2004) 'Youth Justice in Great Britain' in M. Tonry and A.N. Doob (Eds) *Youth Crime and Youth Justice: Comparative and Cross-National Perspectives*, Chicago: University of Chicago Press.

Boutellier, H. (2000) *Crime and Morality: The Significance of Criminal Justice in Post-Modern Culture* (Dordrecht: Kluwer Academic).

Honderich, T. (Ed) (1995) *The Oxford Companion to Philosophy* Oxford: Oxford University Press.

Muncie, J. (1999) 'Institutionalised Intolerance: Youth Justice and the 1998 Crime and Disorder Act' *Critical Social Policy*, 19, 147–175.

# INTRODUCTION

*The aim of this book is to present a criminological diagnosis of a culture increasingly affected by the dichotomy between vitality and safety. This chapter makes it clear what this dichotomy is all about.*

Modern-day society can be described in any number of ways. So many general terms come up if we consult the academic library. There are references to a culture of narcissism, a risk society, a prevention state, a multicultural society, a spectacle society, the victim culture, the cybernetic society, and on it goes. The complexity and diversity of present-day developments apparently invite us, in spite of everything, to discover what we all have in common. The very fact that so many efforts are made in this connection is perhaps the most characteristic feature of the present stage of the history of the Western world. All things considered, we live in a society in pursuit of a common denominator.

In the yearning for an unambiguous definition of modern-day society, of course each author is speaking from his own perspective and preoccupations. Political scientists take democracy and the dominance of liberalism as their point of departure, economists reason from the monopoly of market thinking, and sociologists are primarily interested in the figurations of cultural life. Given the proliferation of general terminology, in this book I would like to add a new name for today's society, *the safety utopia*. Safety has become a central factor in our thinking about today's society and in how we design it. Of course I do not presume to overshadow anyone else's favourite term. I do feel though that it is useful from a criminological perspective to perceive and describe our culture in terms of the desire for safety. So what I aim to do in this book is address the underlying features, the manifestations and ramifications of this desire.

In this introduction, I would like to discuss the criminological view of contemporary society as a safety culture based on a utopian desire that is part and parcel of it. In this context I shall try and create boundaries for the subject of the book and plainly define it. I also hope to make it clear why I reject other criminological terms such as David Garland's (2001) *culture of control*. I am revealing a bit of what the other chapters will address in far greater detail. I feel I can not avoid addressing the developments following the terrorist attacks in the United States on 11 September 2001. I close this chapter with an outline of the main themes of this book.

## Vitality and safety

The observation that safety is now a universal motif in Western society is a bit of a platitude. Yet there is something to add to it. The desire for safety is countered by a force I would like to define as a *vital* drive. The need for safety emerges within a context of an unprecedented and uninhibited sense of freedom.[1] Vitality is a common denominator for numerous phenomena characteristic of contemporary society such as the dominance of the market with its emphasis on having a good eye for business, being willing to take risks, and competing. Or one might bear in mind the temptations of quick, expressive and visceral activities in the youth culture and the media, and the worlds of sports and popular entertainment.

The drive behind so many forms of crime is not essentially any different than *positive* forms of vitality. They can be viewed in fact as *negative* variants of expressiveness. Night life violence thrives for example in an atmosphere of exuberance, like at a carnival or some other festivity (Presdee 2000). In a general sense, Van den Brink (2001) views the ego-focused articulateness that has developed since the 1970s as being responsible in part for the rising violence among youngsters in recent decades.[2] Contemporary crime should be comprehended as emerging from a context largely focused on immediate need gratification and self-fulfilment. At the same time though, she puts them to the test. Time and time again, crime explores the borders of the contemporary desire for freedom, or better yet the demand for non-intervention.

Against this background, the vitality of postmodern society goes hand in hand with a sometimes obsessive desire for safety. Vitality and safety are two sides of the same coin: a liberal culture that has elevated self-fulfilment to the true art of living also has to make every effort to stipulate and maintain the limitations of individual freedom. A vital society generates a great need for safety and thus comes up against an undeniable paradox: if liberal freedom is to be unreservedly celebrated, its boundaries need to be set.[3] That is the bottom line in this book on morality, crime and punishment.

This paradoxical situation leads me to define contemporary culture in terms of a utopian desire for a convergence of maximum freedom and optimum protection. The basic aim behind all the ideas formulated here is to reveal the paradox and examine everything that has led up to it and is to result from it. I am not mainly concerned with discovering the causes of this postmodern consciousness. I would

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[1] I do not pursue the question here of whether it is true freedom or far more a drive to consume and blindly satisfy our needs. I view the unprecedented choices we have to lead our lives any way we wish as a condition for experiencing freedom. I go into the discontent this also creates in Chapter 1.

[2] One of the authors to inspire this line of reasoning is the psychologist Baumeister (1997), who explains violence on the basis of a frustrated sense of self-esteem (see Chapter 4).

[3] Pim Fortuyn can be viewed as a personification of this paradox. The polls showed that this exuberant Dutch politician could count on more than 40% of the votes when he was murdered just before the elections in May 2002.

however like to note that this psychological habitus[4] fits into the risk society as it is described (see Chapter 2) by Ulrich Beck (1986). How to divide the prosperity is no longer the primary concern of a technologized world, the concern is the risks this technology implies. They are risks that are hard to get a handle on (radioactivity is hard to detect), affect everyone (smog is democratic) and are all-pervasive (nothing is indestructible).

In the context of a risk society where vast prosperity is accompanied by enormous fragility, a morality develops somewhere in between vague indefinable fear and boundless expressiveness. This has been evident in the approach to the various disasters in the Netherlands in recent years. A packed fireworks storehouse in Enschede went up in flames, as did a Volendam pub on new year's eve in 2000/2001, and both of these sad events with numerous casualties evoked a desire to protect and preserve our surroundings. Much of contemporary crime is similarly of a strongly expressive nature and evokes a similar desire for safety. This can be the case in the event of friction between groups such as Moroccan youngsters and older Dutch neighbourhood residents, or within groups such as soccer supporters, or even within individuals, as in the seemingly death-defying leaps of bungee jumping.

Vitality and safety are the two extremes a human life navigates between in a risk society. When it comes down to it, we like the idea of police protection for our individual, often exuberant life project. The accompanying morality is one of offenders and victims, of child molesters being driven into a corner and silent marches, of a call for more severe punishment and the awareness that it won't help anyway. These are only a few of the examples I elaborate upon later in this book. They are the mental characteristics of a culture objectively rooted in the risk society.

## Culture of control

Nowadays most criminologists focus on specialized problem analyses and the policy recommendations that can be based on them. Pragmatic detail studies abound, and in itself there is nothing wrong with that. In an intellectual sense though, they are often not very satisfactory because they address the phenomena at face value.[5] On the other hand, criminologists who do macro-sociological analyses tend to present the results as *exposures*. There is a great temptation to describe a culture focused on safety in a negative or even cynical way. High crime rates are disputed, ample media attention is said to make people overly sensitive to crime, and reactions to crime are said to mainly be manifestations of disciplining, repression or exclusion. In my opinion, interpretations of this kind are one-sided and one-dimensional.

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[4] Elias (1939) coined the term psychological habitus.
[5] Research on organized crime is often literally a matter of studying, comparing and describing police files—generally referred to as phenomenon research—and the level of the analysis barely goes beyond that of the police investigation.

My point of departure in this book is that the need for safety in contemporary society is a real need that can not simply be explained away. It is based on real threats and on the moral discontent generated by the risk society described by Ulrich Beck. As such, the need for safety faces society with a serious problem and serious dilemmas. In my opinion, a critical position should be based on an acknowledgment rather than a denial of the reality of the safety issue. I feel it is a gross exaggeration to define present-day safety policy in terms of a punishment state, as French sociologist Pierre Bourdieu and his follower Wacquant do.[6]

David Garland takes a more subtle approach in *The Culture of Control. Crime and Social Order in Contemporary Society* (2001). Yet I feel even his view of contemporary culture as a culture of control overlooks the reality of the underlying safety issues and the ambivalence of the efforts to cope with them. In addition, Garland seems to be barely aware of the vitality that counterpoints the desire for safety. To give the ideas in this book more body, I would like to focus for a moment on how Garland describes the culture of control.

Garland is surprised about the immense changes in our attitudes to crime in the last three decades of the twentieth century. He notes that late modernity brought with it a cluster of risks, uncertainties and control problems that played a crucial role in our changing attitude to crime. From the late nineteenth century to the end of the 1960s, what he calls *penal welfarism* was dominant, a line of thinking that views crime as a product of some form of deprivation that can be alleviated via correction and resocialization. In his view, there is a congruence between what criminologists think and what happens in actual practice.[7]

Nowadays there are no such coherent views on crime. The latest developments are too complex and the reactions too discrepant. No one knows what would be the proper progressive or reactionary response to the problems. "Private prisons, victim statements, informing a neighbourhood about the return of a sex offender, guidelines for sentencing, electronic house arrest, public service sentences, civic guards, the right to reparations—these and any number of other developments lead us into an unfamiliar territory where the ideological lines are far from clear and where the old assumptions are an unreliable guide" (Garland 2001, p. 4). This can greatly confuse anyone who confronts these problems in daily practice. In the introduction to his analysis, Garland cites twelve features of the culture of control that I will briefly describe here because most of them also come up later in this book.[8]

*The decline of the resocialization ideal.* Up until 1970, it was widely believed that criminals could and should be resocialized. This belief, dominant throughout most of the twentieth century, was contested in the 1970s by progressive criticism

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[6] See e.g. Wacquant (2001).
[7] There is an extensive description of this in Garland (1985).
[8] In the framework of a study conducted by my students at the Free University in Amsterdam, I presented these developments to eight prominent Dutch criminologists, who virtually unanimously confirmed that they had also occurred in the Netherlands (unpublished).

of the unlimited power of psychologists and other therapists[9] and subsequently by a conservative attack on the apologetic attitude supposedly inherent in this therapeutization. At the moment there is something of a revival of this ideal in the *What Works Movement* (which I go into in greater detail in Chapter 7). According to Garland, this movement is not however an all-inclusive ideology, as was the case in the past. Instead it is subordinate to views on retribution, incapacitation and risk management. In Garland's opinion, the disappearance of the resocialization model in the 1970s was the first sign of the changing attitudes to crime.

*The reappearance of punitive sanctions and expressive criminal justice*. In the United States, the work of Von Hirsch (1976) has been a clear starting point in the revaluation of the notion of retribution. Von Hirsch sees the resocialization model as mainly focusing on ethnic minorities. To improve on it, he formulates an influential model of just sentences based on an honest trial. Legal equality is represented in a system of guidelines designed to put an end to arbitrary sentencing in the criminal justice system. Quite unexpectedly, the effort to reform criminal law ultimately led however to longer sentences. The authorities and the public alike revaluated punishment as punishment, in other words as inflicting suffering.

*Changes in the emotional tone of policies on crime*. There is now a dramatic undertone to whatever people say or think about crime, and fear is becoming a separate theme in this connection. Of course the media play a major role as well. It is still unwarranted though to blame all this on the media. In a world with coherent and universally shared worldviews (Van Stokkom 1997), emotions do undeniably play a greater role. Collective rage and a call for revenge often supercede social commitment to arrive at a just and social solution to problems.

*The return of the victim*. Ever since the mid-1970s, the victim has been part of the crime problem. Up until then, the victim filed charges and testified in court. Nowadays, victimhood is a safety policy theme, and according to Garland it is often at the expense of the offender. In the United States and Great Britain, laws are even named after victims.[10] What is involved here is victimhood of a generalized nature. People are increasingly viewed as potential victims, which is largely what justifies the present-day safety policy (see e.g. Chapter 5).

*The protection of the public*. The protection of citizens has become the dominant crime policy theme. This aim is diametrically opposed to another public interest, the safeguarding of legal rights, designed to protect the individual from the power and possible arbitrariness of the state. It is striking that nowadays, people don't so much demand protection *from* the state, they want protection from other people *by* the state. In this context, the attitude to privacy is very different that it used to be.

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[9] This was the theme of my Master's thesis *Criminaliteit en heropvoeding; een strijd om de verbeelding* (Crime and Rehabilitation. A Battle for the Imagination, Boutellier and Van der Linden 1980).

[10] There is for example Megan's Law in the United States, regulating the return of sex offenders to society.

*Politicization and populism*. Crime policy has been increasingly popularized. Instead of cautious and detached analyses, policy is now largely made and defended with short statements and sound bites. Expertise is valued less. No one is as interested in the stories criminologists tend to tell in an effort to put things in perspective. There was also evidence of a politicization of the crime problem in the 1970s. But instead of the polarization with regard to crime evident at the time—deprivation versus control—there is now more of a populist undertone, which generates an unprecedented consensus on the importance of combating crime.

*The rediscovery of the prison*. In virtually all the Western countries, there has been an exponential growth in the prison system since the 1980s. Garland notes that from 1973 to 1997, there was a 500% rise in the United States in the number of convicts per 100,000 residents. In the Netherlands the penitentiary capacity rose from 4,037 to 12,401 from 1970 to 1999 (Huls, Schreuders et al. 2001, p. 351). The belief in the prison system grew, and not because of any positive effect it might have on the convicts, but as a way to incapacitate them and satisfy the punitive sentiment. The prison system expanded into a massive and apparently indispensable component of the control of the social order.

*The transformation of criminological thinking*. Instead of deprivation criminology, control criminology has now emerged. Welfare thinking has been replaced by disciplinary thinking. This process was accompanied by a shift from a positive to a negative image of man. In close conjunction with the control approach, theories came into fashion that view crime and the avoidance of crime as a matter of everyday strategies. Crime is viewed as a rational choice or a routine activity shaped by opportunity. In this new criminology, no mention is now made of any deviation or deviant behaviour on the part of individuals, there is simply a normal pattern of criminal events.

*The growing infrastructure of crime prevention and local safety*. Following naturally from the criminology of everyday strategies, new forms of crime management have emerged. They deviate from the traditional criminal justice approach. They are focused on preventing crime, reducing the fear of crime, and undoing the damage it causes. Other parties have become involved, who enter into preventative partnerships at the local level to promote safety and livability.

*Individuals and commerce*. In keeping with the previous development, individuals and private parties are becoming increasingly involved in creating a safe living environment. This has led to a mushrooming of the commercial security branch, which is even larger in some countries than the traditional criminal justice systems of the police and the courts. Private citizens are expected to play a role in the safety issue. This can lead for example to the introduction of tip lines and the promotion of civilian surveillance.

*New management styles and work forms*. The criminal justice system has been increasingly influenced by the *managerialism* that became so popular in civil service circles in the 1990s. Employees think in terms of operational aims and performance indicators and in planning and control cycles in an effort to promote

the efficiency and effectiveness of the criminal justice system and see to its accountability. According to Garland, all this is at the expense of the professional discretionary space and confines the work forms to strictly defined implementation practices. He notes that at the same time, enormous investments have been made in a detention system that can hardly be viewed as effective.

*A permanent sense of crisis*. Garland feels that many of the developments described above are founded on a growing awareness that the existing arrangements are no longer adequate and coherent enough to make crime management really feasible. In addition to a failure to implement and execute the necessary measures, there is a growing sense that the underlying theory no longer suffices. The system does not seem to be capable of coping with the problems it is faced with. It is now in a danger zone of constant risks, scandals, and price rises where the authorities have lost the people's trust. In the Netherlands the Parliamentary Inquiry Committee on Criminal Investigation Methods, better known as the Van Traa Committee, which looked into the rapid expansion of criminal investigation methods, literally spoke of a criminal investigation crisis (1996).

With this list of twelve features, Garlands refers to a radical change in the crime complex, "a characteristic cluster of attitudes, beliefs and assumptions" related to crime and punishment (Garland 2001, p. 163). Once this complex has established itself, it is not apt to quickly change, as is witnessed by the preceding penal welfare thinking that was dominant for so many decades. In evaluating Garland's twelve features, we should bear in mind that he focuses solely on the United States and Great Britain. This is however not the only reason I view a term like culture of control as being too monolithic to describe Western societies. I feel the developments described above are too ambiguous for this purpose, and the underlying sentiments too ambivalent.

## The safety utopia

The *utopia* concept is not held in high intellectual esteem at the moment. Utopian thinking is more suited to an era of lofty ideals and a firm belief in the promise of progress. It was fashionable in the centuries after the Enlightenment when the construction of vast social systems was viewed as a potential possibility. Whenever the term utopian is used, it usually refers to an unfeasible situation, either that or it is a cynical description of an existing system with totalitarian aspects (Crombag and Van Dun 1997). I nonetheless feel it would be useful to allude to the concept of utopia here. I am not however referring to the notion of an ideal and makeable society, let alone its actualization. I am simply using the term utopian to refer to the *implicit* desire concealed behind so many of our acts and claims.

We live in a world that seems to generate quite the opposite of the utopian imagination. We have abandoned the *explicit* utopian desire and no longer wish to be reproached for naively hoping for a better world. We live in a world without

illusions that has grown considerably and for precisely this reason now stimulates a more local orientation. The lack of vision, of values that can serve as guidelines, of a meaning to life is a widely voiced complaint about our times and our politics, be it worded in any number of ways. At the same time though, for the simple reason that we have given up any hope of a different world, we can no longer be utopian.[11] We prefer to think in Popperian terms of piecemeal engineering or—in line with the Social Democrats of Europe—of the narrow margins of change that democracy makes possible. But this does not necessarily mean there is no mental direction to our actions, for in fact that is an implicit utopia.

This implicit utopian depiction of present-day culture does not visibly emerge in coherent ideas on beauty, truth and a good life. It is only at the individual level or within sub-cultures that the yearning manifests itself. In a postmodern, vital culture that has lost the illusion of coherence, all the imagination can focus on is what we reject. The utopian desire is the result of the reversal of this notion: *safety unites*. In the framework of extreme consumerism, we demand for example control over the quality of food or other products. No matter how uninhibited it might be, the youth culture is still surrounded by safety measures such as drug quality control or cameras and police on patrol in the entertainment areas frequented by youngsters. Or take the fashionable sadomasochism that is simultaneously a way of exploring borders and exercising control. The greater the perceived risks, the greater the need for safety.

The objective conditions of the risk culture are subjectively perceived or even sought after in order to simultaneously be able to allay them. The safety utopia develops under objective circumstances, but is subjectively experienced in a yearning for the coming together of vital freedom and safe conditions. In the safety utopia, the friction lies between risk and protection, between expressive uninhibitedness and indignation if it goes wrong, between a high level of tolerance and a call for the enforcement of the rules, between materialistic greed and the demand for security. Each culture has its own internal tensions as regards gender differences, class conflicts, or generation gaps. Although these contrasts have not disappeared in contemporary times, in the risk culture it is the friction between vitality and safety that occupies the central position.

It is against this background that I feel the problem of crime should be addressed. Crime has been an issue throughout history, as has the need been to react to it. But the cultural significance of crime and punishment can differ. In a moral sense, up until the 1970s crime was a question of deprivation. It was viewed as an unfortunate fate, the result of a bad upbringing or poor socio-economic conditions. Of course these fateful factors are still relevant, but they no longer dominate our views on crime. In the course of the past few decades, crime has been redefined as a safety issue, a risk we all run. Anyone can potentially be a victim, and anyone can also be an offender. Crime is no longer the fate of the offenders, it is now the fate

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[11] An exception can be made for the popular book by Hardt and Negri (2000), who would like to rehabilitate an explicit anti-capitalist utopia.

of the victims. Becoming an offender has become an option within an individual life project. Victimhood though happens inadvertently, and this gives it a moral edge.

The safety utopia provides guidelines for the implicit mentality of the risk culture. In so far as we can speak of a culture of control, I feel it should be addressed from the perspective of the fundamental psychological and cultural friction between vital freedom and the desire for protection from it. Against the background of a risk society, there is the development of new social relations, conventions, mentalities and views. They each generate their own expectations, wishes and demands. We do not live in an actualized safety utopia, though we imply one in much of what we think and do. We do not consciously aspire to a state of vital safety, but it does appear as the final point in many of our discourses. In this book, I would like to try and help clarify the dilemmas this creates.

## 11 September

11 September 2001 is one of those historic days that changed the history of the world as we know it. Compared to some of the other days that changed history, its global aspect is striking. The events of that day and the subsequent period affected the remotest corners of the civilized world. They touched every citizen of the world in the sense that without exception, we all had to take a stand. We are all related in one way or another to 11 September. The comprehensive nature of the events is overwhelming. On a world-wide scale, these events affect all our religions, civilizations, cultures, political conflicts, economic prospects and social relations and overshadow everything that preceded them. Paradoxically enough, this historic day united the people of the world in a common experience that led to differences.

In this book, it is not my aim to add any special interpretations of these events. In fact I had completed most of the manuscript before they occurred. Yet in this introduction, I can not help but examine my book against the setting of 11 September. After the terrorist attacks in New York and Washington DC., safety became a buzz word. You hear it all the time nowadays on talk shows and in connection with political decision-making and international relations. At any rate, the concept of safety now includes a reference to the call for protection from terrorism.

From the perspective central to this book, the criminological diagnosis of a postmodern culture, I view 11 September not so much as a dividing line but as a continuation of a tendency already in evidence, the development of a safety culture. The effects can more rightly be viewed as an intensification of the trend than as a radical change. Acts of terrorism obviously have their own characteristics and meanings, but the responses they evoke are no different in essence than the responses to other crimes, i.e. fear and discontent and a desire for safety. I base the emphasis on continuity on several assumptions that I should make more explicit in advance.

In the first place, I would like to note that in a psychological sense, the threats of crime and terrorism have a comparable effect. Crime has become an everyday occurrence in postmodern society in the sense that people have the feeling, whether or not it is justified, that we can fall victim to a violation of our individual integrity at any moment and at any place. We feel we have the right to a *just world*, a term introduced by Lerner (1980) in describing the affront crime results in, but we know the peace of mind accompanying it is unrealistic. The reality of terrorist attacks has reinforced this ambivalence. The uneasy feeling that we can now also fall victim to acts of terrorism constitutes an important aspect of what I call the safety utopia.

In the second place, from a criminological perspective, acts of terrorism are first and foremost serious crimes. Regardless of the scale they are committed on, they are comparable to any other serious crime against innocent victims. More specifically, they can be compared to forms of organized crime, be it with specific features pertaining to the scale, the stakes and the rationalizations.[12] Contrary to what is usually the case with ordinary crime, they are explicitly intended to cause panic. Panic and fear are not merely the side effects of these criminal acts, they are their explicit goals. The motivation behind acts of terrorism lies in the desire to create chaos within an order that is rejected. It thus reinforces and legitimates the need for safety that plays such a significant role anyway in contemporary society.

In the third place, it is important that the international nature of terrorism has put an end to the classical dichotomy between internal and external safety. It has also put an end to the carefully preserved division between *justice* and *defence* that has long been so characteristic of Western nations. This development has been described in *The Rise and Decline of the State* (1999) by the originally Dutch Israeli author Van Creveld. Obviously Israelis have long been witnessing the borderline between military and criminal justice interventions becoming increasingly vague. What could previously be viewed as a threat from abroad has changed into an external threat from within the country. Once again, this has led to a reinforcement of the safety doctrine in contemporary society. The threat has come to be an elusive, omnipotent one.

After the acts of terrorism on 11 September 2001, the desire for safety has thus been reinforced in three ways: by a drastic disturbance of the perception of a just world, by an awareness that the fear is deliberately created, and by the global nature of the threat. The risks facing our society have consequently become more elusive and harder to get a handle on. Perhaps the most essential aspect of the response to terrorism is that even if we want to be able to understand where the evil is coming from, we can barely afford to. We can no longer make excuses for it because the ramifications are too enormous. It is precisely this realization that I feel is typical of the moral consciousness under postmodern conditions. In crime, *the other* is made secondary to the creation of the offender's self. Perhaps

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[12] Ever since the authoritative book by Matza (1969), criminologists have referred to neutralizations as being the motives used to justify criminal acts.

he had good reason to do so within the framework of his own universe. But in a pluralist risk culture, whatever his reasons might be, they are too threatening. For the people of the West, the ideological reasons behind the terrorist acts, whether political or religious, are impossible to understand and impossible to accept.

## Structure of the book

In Part I, *Morality and Risks*, I address several of the basic notions of this book. Contemporary society has changed radically in the past few decades. The welfare state has been replaced by a neoliberal one, with privatization, market mechanisms and new forms of risk regulation occupying central positions. In a cultural sense, ideological ideals have been abandoned and replaced by a striving for physical vitality and emotional self-fulfilment (life politics). Postmodernism, according to Zygmunt Bauman, is "modernism without illusions" (1993). The other side to this historically unprecedented emotional freedom consists of fear and discontent and the need for protection and risk reduction. This evokes a yearning for the meaning of life and for moral restrictions. This manifests itself for example in the current interest in religion and focus on norms and values. Chapter 1 deals with the moral intuitions of our times.

The implicit expectations and ideals of our contemporary culture are described in Chapter 2 as a safety utopia. The ideal of a risk culture is *safe freedom*, steered by emotions and protected by new forms of regulation. People expect, better yet they *demand* optimum protection in a state of maximum freedom. Consulting the literature, I describe features of the utopian imagination and specify the contours of the safety utopia. I address critical views that this kind of utopia has already been or is in danger of being put into effect. The safety utopia implies a danger of totalitarian thinking, but it also implies a recognition of the impossibility of effectuating it.

Part II is about several of the characters and manifestations of present-day culture. In Chapters 3 and 4, I analyse two prominent features of our times, the ample attention focused on sex offenders and the uneasiness about what is felt to be senseless crime. Pornography has become a very everyday matter, but in essence it remains diametrically opposed to the prudence characteristic of contemporary relations between men and women. In the context of sexual liberation the sex offender, and more specifically the offender who sexually abuses children, emerges as the ultimate criminal. He constitutes a normative crystallization point in a liberal pornography context. At silent marches against senseless or other violence, the emotions of the safety utopia surface for all to see. Senseless violence makes people identify with the victims and their loved ones. Social cohesion is constructed to temporarily surround them.

Given a pluralist, ambivalent morality, victimhood constitutes a common gauging point, and this has consequences as regards how people think and feel about the offender. In Chapter 5 I describe the victim and the offender as central figures

in the safety utopia. The victim gives people an opportunity to make moral judgments, thus putting an end to moral relativism and pessimism about our culture. But the victim also nourishes the safety utopia, and contributes in this capacity towards stricter government policy. Under conditions like these, today's criminal is approached in moral terms. This remoralization of the criminal has two effects: it leads to greater repression, and it creates space for new interventions.

Part III is about punishment and control. The role of criminal justice is crucial to the legitimacy of the government. In a safety culture, the demand for criminal justice is greater than ever. The function of criminal justice has changed from an ultimate remedy to an instrument that is perceived as urgent. But in essence, its possibilities are and continue to be limited in a quantitative and qualitative as well as a dogmatic sense. I address this paradoxical situation in Chapter 6. It has led to two effects. The criminal justice industry has become more business-like and its normative function has been reinforced. In Chapter 7 I focus on the meaning of punishment within the framework of a safety utopia where offenders and victims play such a prominent role. In punishment, there lies a tragic quality[13] that emerges again and again, its reverse effect. The moral function of criminal justice creates new ways of settling matters and providing safety.

The utopian nature of the safety culture implies desires, illusions and a danger of totalitarianism. In principle, there are two ways of dealing with it, i.e. with more repression and exclusion or with normative social policy. In a more detailed discourse including the analysis by Garland, in Chapter 8 I examine possibilities for democratic safety policy. They lie in the connection between social and criminal justice policy, which irrevocably means more of a normative role to be played by the social institutions. As such, this development is ambivalent. It diminishes traditional criminal law enforcement, but it also leads to a certain moralization of society. There is a risk of totalitarianism in the utopian ideal of the postmodern culture, but it can also lead to new local community formation.

In the closing chapter I go into the role of criminology in greater detail. Nowadays criminologists have far fewer pretensions than they did in the 1970s. The grand ideas and equally grand differences of opinion within the field of criminology at the time have since been crushed to bits under the weight of the safety issue. This pragmatic trend has led to a revaluation of the whole field of criminology. It barely plays a role however in the public debate on safety. As intellectuals, criminologists can play a greater strategic role in present-day safety policy, but it would entail more of a focus on the cultural meaning of the crime problem.

Special attention should be devoted in advance to the reflective nature of this contribution to the public debate on safety. Specialists in sub-fields might easily tend to feel slighted if their names or subjects are not dealt with at length, but in describing a landscape, it is impossible to mention each tree, bush and flower by name. In this book I focus on the big picture and sometimes overlook the details.

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[13] Garland (1990, p. 80): "the tragic quality of punishment."

I am happy to pay this price for a more speculative contemplation of the situation in the world. I agree with David Garland that contemporary highly specialized criminology needs more generalizing studies.[14]

There are still entire stretches of landscape that remain to be examined. My book is mainly about crime and not about disasters, technological dangers or external safety. Nor do I devote much attention to organized crime. I mainly refer to the communal crime that is visible to one and all and exerts the strongest influence on the cultural consciousness of a society. And I barely focus at all on the multi-ethnic society, which I assume to be a permanent generator of the trinity of risks, vitality drive and need for safety. The diagnosis focuses on the consciousness, particularly the implicit consciousness of society, and not primarily on its objective conditions.

In principle, each of the chapters can be read separately, though they do combine to form a cohesive whole. In two senses, I aim to formulate a *criminology of significance* in this book. Firstly, I want to comprehend and clearly present the psychological and cultural significance of safety. Secondly, I hope the book can make some kind of contribution towards how we think and act in relation to this theme. I do not aim as much to conduct an examination and make recommendations as to draw a diagnosis that can lead to a discussion on the medicine. The dominance of its subject matter and its multi-disciplinary nature[15] are precisely what can enable criminology to contribute towards the debate on the direction society can head in.

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[14] Criminology is an "area of scholarship that stands in need of more generalizing studies, not fewer" (Garland 2001, p. IX).

[15] In my opinion, what Bauman says about himself also holds true of criminology as an independent discipline, i.e. it is "inherently and probably incurably eclectic" (quoted by Munters 1998, p. 17).

# PART I

# MORALITY AND RISKS

# CHAPTER 1

# REALISTIC DISCONTENT AND UTOPIAN DESIRE

*A certain discontent is characteristic of contemporary culture. It manifests itself in the renewed interest in religion and the call for decency. The present-day moral ambiguity fuels an implicit utopian desire.*

We tend to overlook the obvious. It is precisely what is indispensable and always there that we so easily forget. It is not until we are out of breath that we realize we are breathing at all, and it takes a blackout to make us aware of how dependent we are on electricity. Similarly, if someone exhibits a lack of decency, we suddenly understand how important our manners are. The same generally holds true as regards morality. It was not until what we had always taken for granted was gone that we started to take an interest. So in this sense, it is not surprising that *contemporary morality* became such a popular issue in the 1980s. Distinct from the neo-liberal ideas so dominant at the time, the focus began to shift to morality, gently at first, and then with gradually growing resolve.

In itself it is quite understandable that for such a long time there was a certain distrust of the whole concept of morality. So many ways of patronizing, excluding and oppressing people went under the guise of doing good. Throughout the construction of the welfare state, even though morality was always very much there, it was barely viewed as a separate realm of reflection. In fact in subsequent decades, it was rejected as such. Authority, religion and morality were now a trinity abandoned without a second thought as being overly disciplinary and redundant. The abandonment of this kind of vertical morality, the ethics of obligations, was widely perceived as a liberation of sorts.

After the secularization of the 1960s and 1970s and the commercialization and business spirit of the 1980s and 1990s, the demand for morality is however omnipresent once again.[1] The word civilization is undergoing a revival as well. It is supposed to be on sale in the bargain basement, and a new civilizing offensive is called for (Van den Brink 2001). The emphatic presence of the theme of morality is crucial to the subject of this book. Crime is all about norms, and implies views

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[1] I don't feel the 1960s and 1970s meant a departure from morality. Instead they constituted a period of implicit hyper-morality. Automatic norms and authority relations were breached on the grounds of a moralistic dualism: solidarity and self-fulfillment (see e.g. Tonkens 1999 and Duyvendak 1999). To a certain extent though, the two were contradictory, and in the 1980s they were surpassed by the insolence of neoliberal market thinking.

on good and evil and attitudes towards them. There is no way the crime problem can be addressed without also addressing morality.

In this chapter, I want to try and get more of a handle on the morality of our times. To this end, I start by examining the discontent that is part and parcel of postmodern morality. I then discuss two forms of this discontent, the intellectual interest in religion[2] and the rise of a politics of decency.[3] I go on from there to argue that the moral ambivalence of our times is breeding grounds for a utopian desire to transcend it.


## Postmodern morality

I use the term postmodern somewhat hesitantly in this book, for it has already come to have a rather old-fashioned sound to it. The postmodern era began in the 1970s when the term was first used to refer to it. It was French philosopher Lyotard (1979) who generalized the term from the field of architecture and art to culture in general. Various theoreticians defend the notion, and on good grounds, that ever since the 1970s there has been a qualitative departure from the modern era. In particular, our relation to *the truth* has changed to such an extent that we have gone beyond the modern era. Others view contemporary times more as an extension of the Enlightenment (e.g. Giddens 1990). They prefer to speak of a late modern era.

I mainly view the term postmodern as being semantically adequate. It empha-sizes the difference from the preceding period, which is convenient when it comes to morality. I adhere in this connection to the practical definition Zygmunt Bauman gives of postmodern morality. He defines it as *modernity without illusions*, and here the main consequences pertain to the issue of morality.[4] With the disappearance of the great ideological narratives, the institutional embedment of moral norms and sentiments has similarly disappeared. Ideological values, behavioural norms and social agencies are not necessarily coherent. Postmodern man has pretty much come to be on his own, and all he has nowadays are the social frameworks and networks he moves in as an individual.[5] In his book *Postmodern Ethics* (1993), Bauman analyses and describes this situation.

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[2] In 1998 religion was even the theme of the Dutch Book Week, in fact the theme was God. This choice resulted in heated debates in the country's papers on the meaning of religion in contemporary culture.

[3] It is no longer uncommon in the political arena to speak of the degeneration of the cities and uncouth manners. Up until recently, the small Christian parties seemed to have a monopoly on terms like these.

[4] "The postmodern perspective . . . means above all tearing off the mask of illusions" (Bauman 1993, p. 3).

[5] This leads various authors to conclude, quite unjustly I feel, that not really that much has changed in a moral sense (Bovens and Hemerijck 1996).

In the process, he criticizes postmodernists who are primarily so enthusiastic about the contemporary situation because they have been liberated from the shackles of church and state. Kunneman (1998) is a Dutch proponent of this stance. He mainly describes the postmodern condition as an opening towards new *horizontal* relations where space is created for an indeterminate longing as regards the rationality of the systems. After his books on Habermas and Lyotard, the one on postmodern modernity was published in 1998. In order to shed a clearer light on Bauman's ideas (and my own), first I discuss this essay by Kunneman.

The most important part of Kunneman's essay on postmodern morality is an open letter to his mentor Habermas. For years, Kunneman accepted Habermas' ideal of the power-free dialogue. Democratic communication should be characterized by consensual truth: we talk in order to reach a consensus with each other. Kunneman departs from this view though in his open letter. He has lost faith in a dialogue that can create unity between people. Not only because each of us has our own reality, but even more so because this reality can only be partially formulated in words. Language and experience are not in a one-on-one relationship. In the "holes of language," according to Kunneman, lies the "the indeterminate" (taken from Lyotard), the yearning that can not be put into words. In Kunneman's view, mentor Habermas was too determined to cling to the notion of rational man capable of knowing his world and ultimately his own authenticity.

In this convincing criticism of Habermas' ideal, an awareness is evident that might have been called religious in former times, but has come to lead a secularized existence in postmodern theory. In this form—without a name and thus without any empirical meaning—it often evokes a sense of meaninglessness. To Kunneman however, this linguistic inability to give it a name and share it with others is not necessarily problematic. Instead we should consider ourselves fortunate that it has been made available in our era. In former times, after all, the indeterminate was shackled by the church, the ideology, the patriarchy, or whatever authority there happened to be.[6] Kunneman (1996) called them "tea cosy cultures" in his previous book. In the book referred to above, he speaks of the "Law of the father," solidarity enforced via the hierarchic route.

Nowadays we are dealing, according to the author, with a mixture of moralities. There is still a paternal solidarity with the community, a morality of freedom and social justice, and a personal morality based on "something indeterminate." So Kunneman does not feel there is any morality crisis to speak of, there is simply a mixture, with the possibility of new moral directions emerging. Our own individuality is acknowledged outside the compelling pressure of the community and he sees this as a good thing. Kunneman is certainly no fan of the communitarians who want to re-introduce such a thing as "the moral community," which is

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[6] Cf. in this connection the philosopher Slavoj Zizek, who speaks of the current importance of "the real," a term that refers (following French psychoanalyst Lacan) to that which can not be named; see the interview with him by Deichmann and Reul (2001).

precisely what we are now liberated from. He is more interested in the possibilities of commercial and social institutions for constructing our identities.

In itself there is a great deal to be said for facing the world with an ideologically liberated spirit. A world of indeterminate individuals is infinitely more exciting and interesting than a community drilled in an ethics of obligations. There are no longer any great ideological narratives to claim sole rights. Morality might indeed be found in smaller frameworks, in organizations, in the plethora of agencies that characterize contemporary society. These institutions, or so Kunneman feels, should be organized in such a way that they provide space for a conversation, for a meeting of the minds, for personal stories, in other words for the indeterminate. And why shouldn't they?

Despite the infectious optimism underlying this view, it does have a couple of weak points. It is strikingly noncommittal in the sense of day-to-day life. For what do we base our choices on in our daily interaction with things, people and organizations? In other words, how do we show our children what a good life is and what do we tell them about it? What can we hold each other as fellow citizens accountable for? And what do the power institutions do that do not feel accountable as a result of this liberated desire? A morality of indeterminacy is liberating, but it is also risky. It leads to euphoria, but it also leads to fear. There is a great vital force underlying Kunneman's postmodernism, but it can also put people on their guard.

This becomes all too clear when we turn to the social reality. I don't think it is solely characterized by liberation, if at all for that matter, it is also characterized by discontent. The indeterminate might lead more to vague indefinable feelings than to a sense of freedom. It is precisely the ample freedom of choice—"I can be anyone at all so who should I be?"—that youngsters can perceive as oppressive. I feel the key to contemporary morality lies more in experiencing ambivalence than in embracing moral plurality.[7] To back this up, I would now like to say a bit more about two responses to the present-day moral condition, the renewed interest in religion and the rediscovery of decency and civilization.

## The religious option

Intellectuals are no longer hesitant to admit they are having trouble leading a life without God. Some of them have actually taken the step and adopted a religion, usually Catholicism. Others wonder whether Western morality can do without the Christian heritage. In a certain sense, the revival of interest in religion is a logical response to the moral indeterminacy of our times. Historically speaking, God is

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[7] Koenis (1997, p. 24) refers to a communality thesis—the desire for a coherent morality—only to subsequently reject it. I don't think he adequately takes the psychological importance of coherence into account. Plurality is a political ideal, but this does not make it a lifestyle.

after all the leading bearer or our morality. For centuries on end, He even had sole rights of sorts in matters of good and evil. Sooner or later, everyone who delves into life's moral questions comes up against God. God is the *pièce de résistance* so to speak of our moral discourse.

It has been quite some time since Cuperus made a contribution to this debate in *Socialisme en democratie* (1996), the magazine of the Dutch Labour Party. In an article called "Nostalgia for the Christian Democrats," he expressed his doubts that a public morality would be feasible without Christianity. With his nostalgia for Christianity, Cuperus was essentially joining the growing ranks of people who lament the loss of religious belief and foresee nothing good in the future, who recall with longing the days when the Dutch normative landscape was in such impeccable shape. These *new believers* have converted to ironic Christianity. Too skeptical to actually believe, they yearn for a reassuring ideology that would preserve society's proper order. "I wish I could believe," is a frequently voiced paradoxical statement that is part and parcel of this sad mental state.

There is something ludicrous about the discrepancy between a secular lifestyle and the yearning for a Christian culture. After all, what is the good of this yearning in today's melting pot of ideologies? The cultural revolution of the 1960s democratized the ideals of the Enlightenment. Armed with Kantian imperatives, a society without God was now felt to be feasible and ever since the 1960s, millions of people opted for a godless life. This secular revolution put an end to the salvation symbolized by the hereafter for so many generations. And it also liberated us from the darker projection of a hereafter, i.e. hell.

In the second half of the twentieth century, the secular morality of the Enlightenment meant we were all free to choose our own god without any sanctions and could even think we were god ourselves. Aside from all the disadvantages, this was an unprecedented Western achievement. For the time being, it is barely conceivable that the religious alternative will really present a viable response to the moral ambivalence referred to above. It is still the case that for individuals or limited communities, the belief in God can be an attractive option. Vis-à-vis the humanist points of departure though, it would seem to be obsolete as an organized form of morality.

In his essay *Postmodern Religion*, Bauman (1997, pp. 165–186) does not view religious postmodernism as being very probable. Following Alain Touraine,[8] he attributes religion with three functions. Firstly, the faith in an immutable truth gives people mental tranquility. Secondly, a common religion organizes social relations. And thirdly, religion reconciles us with the fate of man and with death. The postmodern condition means a departure from all these functions. An immutable truth has simply lost its credibility and is diametrically opposed to today's demands. Social relations have been organized along other lines ever since the industrial revolution. And according to Bauman even the third function, reconciling man with suffering and death, is no longer relevant in this form.

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[8] Bauman refers to his book *The Post-Industrial Society* published in 1974.

In Western culture, death has become increasingly isolated from day-to-day life, and is only experienced in the most intimate circles. As a result though of its constant presence in the media, death has become very commonplace as the general fate of man. What is more, according to Bauman death has been brought to the fore anyhow; in other words it is perceived in small threats in the event of illness or ageing. Our existential uncertainty is no longer the same as the uncertainty experienced by premodern man, for whom death was a permanent fatal threat. Modern-day insecurity mainly has to do with our efforts to become and remain an identity. We are losing sleep without any promise of heaven or any fear of hell, Bauman (1997, p. 1997) adds ironically.

This argument is important in the context of this book on the safety utopia. All our attention is focused in this framework on what I would like to refer to as *identity uncertainty*. The uncertain postmodern lifestyle mainly leads, according to Bauman (p. 179), to a need for identity experts. In so far as Christianity once again has any significance at all, it would seem to be in meeting this demand. In Western culture, the renewed interest in religion mainly has an individual significance and barely a social or cultural one. For the rest, Bauman views religious fundamentalism as being quite viable under postmodern conditions. It combines the material advantages of the modern era with an answer to identity uncertainty.

The alleged religious revival seems to be more of an individual expression of moral discontent than a societal response to a moral crisis. Cuperus' observation that our culture is still sprinkled with Christian ideas is more the beginning than the end of an answer. It should be noted though that Humanism, Judaism and Islam are similarly sources of inspiration for our moral life, as Zijderveld (2001) notes in a lecture on "what went wrong with Christianity." It is useful in this connection to briefly address the pretensions of the organized Humanism active today.

Most Humanists believe in a meaningful life without God. They do not feel a well-run society necessarily depends on a common religious belief, nor do personal views on the meaning of life. Man generates his own binding force. As a movement, Humanism has traditionally taken a stand against religious ideologies. This modern view, rooted in the Enlightenment, holds that organized religion can just as well be abolished. In essence, the religiously inspired ideologies only impede the development of global Humanism. This view is in the tradition of atheism, which assumes we would be better off without God.

Atheists are apt to allude to atrocities committed in the name of God. After all, it is man's belief in a higher being that enables him to see non-believers as inferior and legitimates his combating or converting anyone who thinks differently. They would ostensibly seem to have history on their side—from the Crusades to 11 September, and from the Inquisition to Northern Ireland. It is however only half a truth, since the faithful do not have a monopoly on atrocities. The regimes in Nazi Germany and the Communist countries were secular, but unprecedentedly evil in their dimensions, criminal systems and atrocities. So man's inhumanity to man is essentially irrelevant to the debate on the pros and cons of God.

A second school of thought can however be discerned in Humanism that now seems to be more dominant. This postmodern position is confined to the observation that though we can do without God, there is no need to go to battle against Him. From this perspective, the belief in God is to be respected though it is not a mandatory option on the lifestyle market. Postmodern Humanists do not feel there is any need to actively combat religion. They ostensibly even exhibit a lack of interest in the whole religious question. This is why legal philosopher Paul Cliteur calls them intellectual sluggards who deep in their hearts hate thinking about God or any alternative for Him. To them, philosophy of life is a forgotten language.

Although the idea of a belief as option might seem unattractive in an intellectual sense, it is quite dominant at the moment. I feel that in its sharpness, Cliteur's evaluation misses the point of this idea, which is informed by a sentiment other than the anti-religious one. I would like to view this sentiment as an awareness that in a moral sense, we should not have any illusions. No matter how uncomfortable it might make many people feel, certainly after 11 September, we can no longer claim to see *the truth*. This does not necessarily mean it no longer makes any difference. Without illusions but not indifferent is how the modern-day moral desire could be described. It would seem extremely improbable that a religious revival would be able to restore the moral tranquility of yore, but as expression of moral discontent it is certainly significant.

### The politics of decency

Another manifestation of the moral desire is the discussion on norms, values, decency and civilization. It is a debate held at various levels, political, intellectual and scientific as well as practical. In Lieshout, a village in the Dutch province of Brabant, a community-wide policy on norms and values has been in effect for years. In large cities as well, the politics of decency is becoming ever more pervasive. Following the example of Rotterdam, efforts are being made in various cities to develop city etiquette. It is a list of dos and don'ts that people are expected to adhere to, and they can hold each other accountable if they don't. There is widespread support for this trend, which would have been inconceivable only a short time ago.

In Dutch national politics, ever more attention is devoted to the politics of decency. After the larger parties—the right wing, centre and left wing alike, in 1999 the Green Left Party devoted a whole issue of its scientific journal *De Helling* to morality and decency. I want to say a bit more about this special issue because it illustrates the dilemma facing left-wing intellectuals. The fact that they are having such a hard time with this problem mainly has to do with their role in the 1960s. Up until then, the left wing was always moralistic through and through. Socialism and feminism traditionally centred around notions of solidarity, the new man, and a good life. They were against excessive drinking and in favour of elevating the masses by exposing them to nature and culture, and propagated new forms of community life that were not dominated by capitalism.

Ever since the 1960s though, the moralistic cultural politics of the left wing was replaced by often narrowly defined socio-economic activism. Environmentalists and feminists did formulate moral positions, but they usually did so in overly politicized terms. Talking about morality was no longer something left-wing intellectuals could do without making jokes about it. The left wing's departure from its own moral heritage was probably greater than that of any other political movement. The special issue referred to above gives a clear picture of the present state of affairs in the debate. Schnabel, the Director of the prestigious Social and Cultural Planning Bureau, notes that the increasing freedom and equality has been at the expense of a sense of brotherhood. Instead of compassion, there is more of a tendency nowadays to opt for a strategy of humiliation when it comes to others. According to him, there is a need for new norms of decency, but there are no criteria for formulating them.

The sociologist Wouters notes a yearning for the security of a large and strong we group, as is witnessed by the mourning for Princess Diana and the demonstrations against senseless violence. But he does have his reservations. This yearning for security is generated by the non-transparency of the bureaucratized democracy. People do not have adequate insight into decision-making and responsibilities and this leads in turn to a sense of being threatened. This is why the masses need new enemies, which they find in criminals and ethnic minorities. "No, I am not afraid the Nazis are going to take over again. But all the connotations of the call for greater decency do set me thinking about the contents and the borders of our democracy." Wouters definitely has his reservations when it comes to the call for decency.

The philosopher Pekelharing turns instead to religion, especially because of the awareness in the religious world that certain values are absolute. Religion is not opium for the people, it gives hope to people who feel marginal or redundant. According to Pekelharing, we ought to pursue a kind of religion without a concept of God. He calls upon the Green Left to once again summon man's hope and imagination. Lastly, Van den Brink notes that bringing up children has not become any easier, what with the changing relations of authority and individualization of the upbringing. The special issue makes it clear—I also could have selected other examples—that there is an aspect of inevitability to the whole debate on morality and decency. It should be noted that at any rate in this issue, the discussion is not characterized by many concrete points of departure.

In the book *Geweld als uitdaging* (Violence as a Challenge, 2001), Van den Brink tries to provide the desire for morality and decency with a foundation. Based on his study of how violence develops among youngsters, he concludes that a civilizing offensive is called for. According to this former Marxist, the spirit of the 1960s had a counter-productive effect. The work of the American psychologist Baumeister (1997) constituted the point of departure for his study. Any number of causes can be given for violence, but his attention is focused on the importance of damaged self-esteem. Whenever an act of violence is committed, Baumeister feels there is virtually always a sense of superiority to the victims on the part of the offenders.

If how they rate themselves—their confidence, assertiveness and self-image—is important to them then any offence to it will be painful. This is particularly the case if there is an unstable ego and a lack of self-control.[9] According to Baumeister, violence occurs when people (temporarily) lose their self-control due to frustration or damage to their own sense of superiority.

This psychological mechanism can manifest itself as a lifestyle where impulsive reactions, short-term need gratification and a loss of control become common, for instance due to alcohol or drug use. A sense of guilt is one thing that could inhibit this kind of loss of control. A sense of guilt implies taking other people and the community into consideration. Stimulating a sense of guilt can serve as a possible remedy to violence. Van den Brink puts this psychoanalytically inspired viewpoint in a sociological and historical framework. As a result of individualization and the fact that individuals now each have more of a say, self-esteem has more of a place in our culture. Especially in the case of youngsters who are lacking in a social sense—"they have not received much affective, social or cultural capital"—this can lead to great psychological vulnerability. A clear set of norms can contribute towards keeping large but vulnerable egos under control. According to Van den Brink, contemporary violence requires a comprehensive policy in terms of civilization and decency.

I think this publication clearly expresses the general discontent underlying the politics of decency. Several years ago, the novelist/criminologist Herman Franke (1998) wrote an intriguing essay in a left-wing Dutch weekly, professing his unaltered loyalty to his left-wing ideals of yore. There is only one thing he confesses being wrong about: Man is far less good than he used to think. I think Franke is expressing quite a widespread feeling here. That is one illusion less for the New Left ideology of the 1960s and 1970s. Human nature is more obstinate than anyone thought or hoped. The emancipation ideal did not produce the better world that had been hoped for. Morality turned out to have a dynamics all its own and headed in a direction even the most libertarian free spirit could not have anticipated. Pornography on television, violence on the streets and a lack of respect in the schoolroom all emerged just as moral freedom and cultural equality were becoming our common property.

To a significant extent, the politics of decency has been triggered by dismay about the aggression, the violence and the crime the rather succesful Dutch consensus model has generated. In dealing with this new situation, there are two steps the left wing has to take at the same time. It has to acknowledge that morality represents a world in itself, which is only indirectly linked to socio-economic relations. And it has to find the terms to thematize this other side of what is *good* in a meaningful manner. Although with the present-day dominance of market thinking, there is every reason to preserve socio-economic themes, they no longer produce the normative arguments for regulating the interaction among individuals.

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[9] This thesis seems to be confirmed in the qualitative study *Geweld verteld* (Telling the Violence Story,) De Haan et al. 2001.

In the debate on decency, it is not freedom as such that is a topic of discussion but the conditions it can be experienced under. People no longer want unconditional freedom, they want the kind of freedom that is safe. What they want is security in the public domain so they can exuberantly celebrate their acquired freedom. In essence this has to do with the relation between maximum freedom and the necessary disciplining, and with the civilization buffer that is needed between optimum self-fulfillment and minimum self-control. The moral relativism of the postmodern condition is amended on the basis of the need for safety.

I have tried to clarify the contemporary moral discontent on the basis of two striking developments, the interest in religion and the call for decency. I do not see the belief in God as anything more or anything less for that matter than one identity option among so many others. There does not seem to be any evidence of a true turning point in Western culture. The politics of decency is largely a reaction to the other side of the libertarian morality that has been dominant since the 1960s. For a theoretical discourse on this empirical finding, I once again turn to the writings by Bauman, who gives an in-depth analysis of the present-day conditions in *Postmodern Ethics* (1993).

## Morality without illusions

In Bauman's view, the term postmodern lacks the enticing connotation Kunneman gives it. His use of the term does not allude to breaking out of oppressive shackles, it simply means saying farewell to our illusions. Postmodern means we have abandoned the hope implied by the modern era ever since the Enlightenment. At Auschwitz and the Gulag, the twentieth century exposed the other side of the notion of modern progress.[10] The trust in Reason that prescribes universal ethical principles that are good and true has been replaced by an awareness of an unprincipled morality. Not that it is necessarily a valueless morality. On the contrary, we are more aware than ever of people's moral capacity to make or break societies.

To Bauman this sequence—with moral capacity preceding communal living— is no coincidence. He takes the insight that morality is the beginning rather than the result of social relations from the French philosopher Levinas. In Bauman's view, Levinas' well-known adage that coming face to face with the Other forces us to be there for the Other is the point of departure for our contemplation of postmodern morality. Being there *for* the Other is not the same thing as being *with* others; it precedes it and implies an extremely personal and intimate form of personal responsibility. The disappearance of the ethics of obligations has made it possible for this form of personal responsibility to come to the fore.

According to Bauman, the assumption that free individuals should be kept from abusing their freedom has always played a role in ethical thinking. It has led to one of the internal and insoluble dilemmas of modern times, i.e. *autonomous*

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[10] See in this connection e.g. his work on the holocaust (Bauman 1989).

individuals should be guided by *heteronomous* steering. This explains the ever failing pursuit of principles that can be universally and rationally grounded and the resulting proliferation of rules. "At the end of this road . . . the modern individual is bombarded with conflicting moral demands, options and desires, with the responsibility for acting once again on his shoulders" (1993, p. 31). We are back at Start as it were, because we have to turn to ourselves for moral advice.

From a postmodern perspective, Bauman holds, this advice should be as follows.[11] Man is morally ambivalent, so we no longer have to choose a positive or negative image of man. Nor do we need to hope for an unambiguous non-ambivalent core of morality, since people can be anything at all. In addition, we should realize that moral consciousness is irrational; there is no aim and no means, all there is is personal responsibility, which has been shifted by law to the realm of law and order: "this replaces the moral self, which consists of responsibility, by learnable knowledge of rules" (Bauman 1993, p. 11).

This means morality is inevitably conflict-ridden. There are always choices to be made between conflicting impulses. And almost every moral impulse can in turn have immoral consequences. Moral situations without any ambiguity solely exist in utopias. So morality is not universal, and we should not try to make it universal because that only deadens our moral intuitions. It is precisely this irrational moral intuition that plays such an important role in designing the rational order. That is why it ought to be permanently cultivated and we should not be taken aback if new ambivalence is created as a result.

Despite what is often thought, in Bauman's view there is no such thing as moral relativism; all there is are relativized ethical codes. According to Bauman, whatever postmodern success there might be lies in "the prospect of the emancipation of autonomous morality itself and the justification of its moral responsibility." Not that this makes social life any easier. "The most [we] can dream of is making it a bit more moral" (1993, p. 15). The advice intimated this way is simultaneously reassuring and upsetting. Once again in Bauman's view, the ideological vacuum of our times creates a situation of moral ambiguity. Every moral impulse can have immoral consequences, and the other side of each choice is similarly acknowledged as being legitimate.

In his opinion though, relativizing ethical codes this way does not necessarily imply moral relativism. It is precisely the awareness of the impossibility of universal ethical codes that holds the promise of regaining morality: "emotions have regained their dignity; the inexplicable its legitimacy" (Bauman 1993, p. 33). If the truth is not credible, the mystery of morality thrusts itself upon us. In this sense, postmodern times are witnessing the world's *renewed enchantment* after a lengthy and serious but ultimately undecided modern battle for *disenchantment*.[12] From the framework of a personal and emotional morality, the ethical codes are reformulated. Like Kunneman, Bauman is opposed to efforts by communitarians

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[11] Based on seven features that Bauman elaborates on on pages 10–15.

[12] The term disenchantment was coined by Max Weber, who was referring to the scientification and bureaucratization of society.

to bypass the individual and formulate an ethics of the community. In his view, this kind of community thinking even leads to greater social coercion than is exerted by the state because it reasons from a postulated community.[13]

Perhaps this is not the place to elaborate any further on this complicated notion. Let it suffice to accept Bauman's basic assumption that the source of morality does not lie in the social community, but precedes inclusion in the community: "we are not moral thanks to society (which only makes us ethical or obedient to the law); we live in society, we are society, because we are moral beings" (Bauman 1993, p. 61). Given this moral point of departure, Bauman propagates ethical rules that shape society in such a way that responsibility for others is generalized as much as possible.[14] Although he thus formulates an attractive premise, the question is whether it can adequately accommodate the moral discontent referred to above.

### The other side of the moral coin

There are several similarities between the ideas of Kunneman and Bauman. Both these authors have an aversion to moral codes enforced from above, whether by the state or the community. And both of them see an opportunity in the postmodern condition to voice individual emotions as a source of morality. Kunneman counters the released desire with outside morality, and Bauman, in keeping with Levinas, opts for a previously given authentic form of moral subservience, i.e. to the Other. Unlike Kunneman's released desire, this moral call to the Self from the Other and to the Other from the Self points the claims that institutions make on us in a certain direction.

People no longer reproach institutions for suppressing their desires—that was the theme of the 1970s. Nowadays they reproach them, rightly or wrongly, for not respecting their moral responsibility. What is more, Bauman recognizes the inevitability of shaping social reality. The intimate morality between the Self and the Other can serve as a basic premise and a standard in this connection. It is true that this moral intuition is in constant danger of being incorporated and channelled into social processes, but a postmodern project would nonetheless be able to thus serve as a guideline for social relations.[15] Even a postmodern morality, perhaps more than any other, ultimately presumes choices if it is not to lapse into pure procedures.

If we return from this finding to safety, the theme of this book, we are moving into precarious territory. It is uncommon for postmodernism theoreticians, and this

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[13] In his essay entitled *Communities* (2001), Bauman elaborates upon the dilemma between individual freedom and the community (see Chapter 4).

[14] We also find this idea in the writings of Rorty (see Boutellier 1993, Chapter 7), whom Bauman makes frequent references to (e.g. 1997, pp. 64 ff.).

[15] In his essay *Morality Begins at Home*, Bauman gives rise to this kind of interpretation: "The road from the 'primal moral scene' to macro-ethics leads through political action" (1997, p. 65).

holds true of virtually all philosophers of morality, to voice an opinion on problems of crime and *unsafety*. If they do so, they are generally not very open to the aspect of coercive action underlying criminal conduct. Kunneman refers in passing to the crime problem, only to immediately relativize it. We have also become more sensitive to violence, the somewhat banal argument goes. Even if this is the case, we might still wonder whether a growing aversion to violence and the law of the jungle is not similarly to be viewed as an achievement of postmodern desire.

And Bauman mainly writes about crime in terms of criminalization. Crime constitutes an unavoidable product of consumer society. He notes that the post-modern era has generated new forms of exclusion (Bauman 1997, pp. 35 ff.). In his view, evil mainly lies in the disciplining processes of the state and the community that impede individual responsibility. He mainly focuses on structural evil, and overlooks the evil of the criminal so significant in the individual's everyday perception.[16] Here we come up against what I feel is an essential omission in the diagnoses of Kunneman and Bauman. Their concept of morality does not take the other side of the morality coin into consideration.

Infinite desire is also perverse and violent. It can be sadistic and tyrannical. And the face of the Other is not only an invitation to subordination. Achterhuis notes that Levinas' philosophy also emphatically implies the existence of evil. The face of the Other is simultaneously the temptation to murder and the imperative *Thou shalt not kill*. "Man can solely become a Self by setting borders with the Other and defending himself from its threat. This inevitably also implies forms of violence and aggression against the Other. So what is good for the Self is evil for the Other" (Achterhuis 1998, pp. 164 ff.). Achterhuis sees this two-sidedness of the Other as being crucial if one is to avoid being wishy-washy in evaluating Levinas' work.

Apart from this philosophical argument, it is primarily a historical consciousness that makes one doubt the moral capacities of man. Morality is a story about sin as well as virtue, hatred as well as love, and violence as well as compassion. In each successive period, this story needs to be formulated anew in updated words and meanings. This is the central task in the era without ideology. It is against this setting that I would like to examine the psychological motivation behind the safety utopia. Moral ambiguity is often unbearable, certainly on the occasions when we are confronted with the evil sides of human nature. The discontent generated by the moral vacuum of the post-ideological era evokes a yearning for a sense of religious security, politics of decency, or a civilizing offensive. It is the other side of the morality coin—ambivalence, insecurity, violence—that is dominating the design of contemporary culture. In the safety utopia, desire transcends the moral ambiguity of our times.

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[16] Violence invades the integrity of body and mind, and more than ever in an era of "identity politics" (Giddens 1990, see Chapter 3 of this book), it means a violation of the personality. The German philosopher Axel Honneth draws this link between violence and the postmodern *Kampf der Anerkennung*.

# CHAPTER 2

# THE SAFETY UTOPIA

*In the risk culture, moral discontent generates a need for safety. It emerges within a context of great moral freedom. It is this paradoxical desire that is at the foundation of the safety utopia.*

Theoretical reflection on safety begins by acknowledging the real experience of a lack of safety. This basic premise is less self-evident than one might think. In Chapter 1 it is clear that everyday evil barely plays a role in academic analyses of postmodern morality. The philosophical discourse I address based on the works of Kunneman and Bauman is quick to transcend the reality of the experience of a lack of safety. The evil things people do to each other and the need for a response to them are often overlooked. Intellectuals are often more interested in the structural violence of the authorities or in exclusion processes than in the problems that generate them.

If we are to diagnose the safety issue, it is indispensable though to recognize the call for safety as a realistic factor. Safety has become one of the major social problems of the early twenty-first century. This is evident from population surveys where people list crime as their greatest concern, ranking above the environment, health and the economy.[1] It is similarly evident from the attention in the media and the political arena. And it is clear from the attention focused on the criminal justice system. It is simply inconceivable that politicians would not feel called upon to address the social unrest caused by rising crime rates and the lack of safety they imply. After all, meeting the needs of the citizens is ultimately the most important legitimating force in a constitutional democracy.

This does not necessarily mean the needs voiced by the people are the only factors politically affecting the legislative and law enforcement system. These needs are too widely varied and should be far more carefully considered in relation to the greater general interest of the constitutional state. For example the reintroduction of capital punishment, even via a referendum, would be unacceptable; the Dutch Socialist Liberal constitutional state can not afford to have anyone's death on its conscience. But since the government, with its monopoly on violence and law

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[1] In the *Sociaal en Cultureel Rapport 1998* (1998 Social and Cultural Report), the following statement is made: "They (the population) wanted safety. In 1997 57% listed combating crime as one of the first five goals and 52% wanted law and order enforced" (p. 129). In 1997, combating environmental pollution was second at 36%.

enforcement, does and indeed should lead the way as regards the safety issue, in the framework of the constitutional democracy it should be able to give the people what they feel is right and just. For this reason alone, the need for safety should be taken seriously, especially by criminologists.

In this chapter, I examine the need for safety as closely as possible. Firstly, I relate it to the risks of present-day society. In the framework of the risk society, the moral discontent described in Chapter 1 becomes a desire for safety. I reformulate this need for vital safety as a safety utopia, an impracticable but implicitly vital ideal that steers individual and political action and in this capacity can also acquire unattractive aspects. Lastly, I examine the work of the French philosopher Slama. He views safety policy as the establishment of a totalitarian moral order which might be designed to achieve the very highest aims, but in his opinion is patronizing and disciplining. I myself propose a different evaluation of the situation.

## Living with risks

The individual responsibility man has regained—Levinas' primal moral scene— implies a point of departure for developing communal intuitions on good and evil. It is naive though to think this notion will convincingly help abate the moral discontent that is perceived. Faced with the moral ambiguity described above, people are looking for ways to transcend it. A supplementary analysis of the existing public morality is what is called for. On what grounds are ethical codes developed? What meanings accompany the establishment, or rather the permanent re-establishment of social institutions? In this section, I focus the moral discontent of Chapter 1 on the culture of safety that is now so dominant. My ideas are in keeping in this respect with those of the German sociologist Ulrich Beck (1986), who wrote an influential book on the risk society. I also consult the collection of essays *Postmodernity and its Discontents* that Bauman published in 1997.

Beck's book *Risikogesellschaft; Auf dem Weg in eine andere Moderne* (Risk Society: On the Road in a Different Modernity) was published in 1986, but did not appear in English until 1992. It already had a small circle of German readers, and the English translation made it accessible to a much wider readership. Beck's central premise is as simple as it is ingenious. Technology has made such rapid advances that it has lost control over its own risks. Successful modernization has decreased man's material needs but potential threats have only increased. Efforts to reduce these risks have come to dominate society's regulatory processes.

This means much of our material security is accompanied by large but often invisible risks.[2] The logic of prosperity production has been replaced by the logic of risk avoidance and risk management. The scarcity economy has been overcome, but its wells are poisoned. Beck is alluding here to the atomic, chemical, ecological

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[2] Throughout history, the average life expectancy was never higher than in the West today. In fact references are made to a safety paradox in this connection (see e.g. Evers and Nowotny 1987).

and gene technological risks that, unlike earlier dangers, are not linked to any specific time or place or social class, can not be attributed to rules of causality, blame and responsibility, and can not be compensated or insured. It is not the distribution of production but the spread of risks that is the central mission of contemporary society.[3]

The risk society is based upon permanent potential danger, which has significant consequences for "the social architecture and the political dynamics of society" (Beck 1992, pp. 22 ff.). Since risks are invisible, they solely exist as "knowledge" unless they end in a disaster. Of course this knowledge can be manipulated and is sensitive to influencing. The spread of risks is not evenly divided over the population, but it has a different logic than the class structure. Some risks have no geographic or social borders. What is more, risks are insatiable and infinite.[4] And it is possible to benefit from them . . . risks are big business. Unlike wealth, risks are not something anyone can own, even if they want to. All we can do is defy them or fall victim to them.

In Beck's own words, the risk society is "a catastrophic society" (1992, p. 23), where policy is based on the possibility of a disaster. The risks he is alluding to are large inconstant ones that in essence do not allow for an individual response of any kind because in the end, they affect everyone "Poverty is hierarchic, smog is democratic" (Beck 1992, p. 36). A technology that produces its own risks and loses control over them automatically gives rise to questions about its development. Risk consciousness thus negates the scientific monopoly on rationality. Even more importantly, ethics is now essential to help set its borders.[5] Beck even fantasizes for a moment on the possibility of "a world community" that would be able to make the global risks manageable (1992, pp. 46–47), but rejects this notion because the nation states are too short-sighted.

Beck notes the emergence of movements whose worldviews, norms and certainties are grouped around a core of invisible threats.[6] He also notes however that the risk society has an inherent tendency to appoint scapegoats. It is not the dangers themselves but the people who point them out who become the target. Social stereotyping is always looming; the risk society is also a scapegoat society (Beck 1992, p. 75). There is consequently enormous psychological pressure on the members of the risk society. People have to learn to cope with dangers in a political

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[3] It should be noted in this connection that ever since the nineteenth century, risk insurance has come to play a major regulatory role in society (see Ewald 1991). However, according to Kalma (1992), Beck views an insurance policy covering today's catastrophic risks about as effective as "a bicycle brake for an airplane."

[4] "Civilization risks are an endless list of demands: insatiable, infinite, and self-producing" Beck 1992, p. 23).

[5] Ever since the German publication in 1986, a vast ethics complex has emerged on issues of medical technology, the environment and nuclear energy which is dominated more by matters of moral desirability than knowledge of technology.

[6] He is thinking of groups like environmentalists and perhaps even anti-globalists, who see a vague threat in globalization but are not willing or able to formulate an alternative.

as well as an individual sense. The larger the threat, the more of a tendency there is though towards an interventionist policy on the part of the authorities.

Beck's description of contemporary society as *Risikogesellschaft* has had quite a powerful effect. The concept of risk has since been generalized from technology to other realms of life by various authors including Back himself: "Take whatever you want—God, Nature, truth, science, technology, morality, love, marriage—modernity transformed everything into 'risky freedom'" (Beck and Beck-Gernsheim, quoted by Bauman 1997, p. 193). In other words, life in a *Risikogesellschaft* is perceived as a *Risikoleben* with all the uncertainties that entails.[7]

Globalization, a weakening of family and neighbourhood life and the permanent danger alert conveyed by the media are all open wells of insecurity and discontent. This in turn has consequences as regards our need for support or in Bauman's terms, "We yearn for a mainstay and a refuge so that something of the hectic responsibility for our decisions is lifted from our shoulders" (Bauman 1993, p. 21). Risky freedom leads to an overwhelming feeling of uncertainty, and even more to the fear that other people are making the wrong decisions.[8]

## The psychological reversal

In such an unsettled context, it is obviously more difficult to develop an identity than in times of tranquility and order. Predetermined and fixed identities embedded in certain traditions and practices (the moral desire of communitarians like MacIntyre[9]) are no longer appropriate to today's mobile, multi-ethnic network society. People have to choose; they make small decisions all day long that turn them into a self, and are well aware that it also could have turned out differently. Identity-focused uncertainty is easy for the market, fundamentalism or any other certainty provider to tempt or abuse. We are susceptible to anyone who can provide any kind of certainty but since we have our doubts about everything, we are not easy prey. In other words, we yearn for precisely the kind of certainty we can not believe in. The moral discontent of our culture is consequently an unfulfillable need for certainty.

It is thus a different discontent than the one Freud so magnificently comprehended and described in his essay *Civilization and its Discontents* (1930). The discontent Freud was referring to was generated by the battle between human lust and a disciplinary culture. More than seven decades later though, it simply appears to have been the discontent of the era of modernity. The price Freud's mankind had to pay for a regulated culture was the suppression of their desires.

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[7] Bear in mind the attraction that living on the edge has for youngsters nowadays. See Lyng (1990).
[8] Other authors such as Furedi (1997) and Wildavsky (1988) have also noted that fear and uncertainty are central emotions in our modern-day culture.
[9] For a discussion of his work (1981) I refer the reader to Chapter 6 of *Crime and Morality* (Boutellier 2000).

The certainty of their culture was at the expense of the freedom of the individual. But our times are a period of weaker and fewer norms and unprecedented individual freedom. And for this we are paying a different price, i.e. a lack of security and safety.

"Postmodern men and women have exchanged part of their security for happiness. . . . The discontent of postmodernity is generated by a kind of pleasure-seeking that does not allow for enough individual security" (Bauman 1997, p. 3). In other words, Freud's principles of reality and lust have switched places. Lust (enjoyment, fun) is the criterion for the postmodern identity experience that the principle of reality has to cope with. Freud may well have explained the discontent in modern culture by citing the disciplining so prevalent there, but in Bauman's view it is quite the opposite—the limitless vitality—that generates discontent. The contrast Freud describes between lust and culture is turned upside down. Our lust is no longer moulded, disciplined and frustrated until it is transformed into a culturally acceptable form. The cultural vitality so characteristic of contemporary times gives the individual motif all the space it needs, and this results in a desire for protection and safety.

This reversal is obviously crucial to any debate on safety. In the safety issue, the borders of moral fragmentation and the risks of individualization visibly emerge. Ample individual space is accompanied for example by widespread criminal deviance. Freedom and risk, vitality and protection are thus two sides of the same coin. "No matter what they call their concerns, what individuals really abhor is the risk inherent in freedom. The problem however is that freedom and risk simultaneously increase or decrease" (Bauman 1997, p. 193). There simply is no solution to this paradox of vitality and safety. More freedom is accompanied by more uncertainty, and more certainty goes at the expense of individual freedom.

I think it would be wise to stop here for a moment so as not to get too caught up in the sweeping statements made by Beck and Bauman. The conditions of the risk society are less unambiguous and general that they describe them as being. In the first place, they are too recent to be total. Modern and even premodern conditions are still in evidence, e.g. in large groups of church-goers, in family ties still brimming with vitality, in coherent neighbourhoods and in society's institutions. Moreover, the risks, uncertainty and discontent are frequently less vague than Beck and Bauman would lead us to believe. Illness, death and violence are real experiences that lead to pain, sadness and fear. I nonetheless feel it is important to address the safety issue against this background.

An adequate diagnosis of the crime problem presumes that the situation surrounding the disorder is evaluated as well. Bauman convincingly formulates the fate of postmodern man. He pays a price for his vitality on the labour market, in society's nightlife, in the media and in his private life, and the price is increased uncertainty—identity uncertainty. He does not however express his postmodern discontent in Freudian repression, obsessive-compulsive neuroses or, in the most favourable case in sublimation. Instead he expresses it in anxiety and a sense of being unsafe. The need for *safe freedom* referred to in passing in Chapter 1 is now

more of a symptom of a general contradiction between cultural vitality and the need for protection from more or less realistic risks.


## The utopian temptation[10]

Safety is the key concept in the social order of the risk society. It not only constitutes a rational response to realistic threats, the need for safety is also an effect of the identity uncertainty that is part and parcel of postmodern culture. The experience of not feeling safe is central to the psychological habitus of postmodern man. If we are to understand the reaction to this feeling, I think it is wise to speak in terms of a utopia, in other words a world we dream of and project into the future as the counterpart of existing reality. The construction of utopias is motivated by dissatisfaction with the existing world. The torment of the existing world leads to fantasy views on man and the world. In other words, utopian literature presents prospects of prototypical motifs that dominate a society but generally remain implicit. The imagined world of our times is the safety utopia, that is the central proposition of this book.

   I think a further analysis of this world would be relevant if we are to address the social significance of the safety issue more fundamentally than is usually the case. Innovations in safety policy usually come about in an ad hoc manner as a result of disturbing incidents. Strategic analyses are generally made using future scenarios or by consulting experts.[11] However the normative question as to the desirability of certain developments frequently remains implicit or is only superficially answered. Via *the utopia*, I think it is possible to wrest the discussion on safety policy from ad hoc evaluations of pure expectations.[12]

   The concept of utopia is taken from the book *Utopia* written by Thomas More as far back as 1516. He was referring to a place that was good (*eu*) and nowhere (*ou*) (Achterhuis 1998, p. 14). It presents the idea of a makeable, total society.[13] In the following centuries, any number of other utopian writings were published, such as *The New Atlantis* by Francis Bacon (1627), *The City of the Sun* by Campanella (1623), and the work of Jeremy Bentham (1791). In the nineteenth century, there was the work by Fourrier and Marx,[14] and in the twentieth century the work of

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[10] The term *utopian temptation* was coined by Crombag and Van Dun (1997) in the title of their book.

[11] See e.g. the interesting report *Justitie over morgen* (Tomorrow's Justice, 2000), where six strategic themes are distilled from talks with experts.

[12] In this chapter, I mainly base my ideas on Achterhuis (1998).

[13] Plato's *The Republic* is generally viewed as the primal or proto-utopia.

[14] Marxists view even mentioning Marx's name in this connection as blasphemy. Marx and Engels were such fervent opponents of the utopians. Their own work was scientific and made an effort to present an objective and consequently necessary development of the economy and thus of society. I nonetheless agree with Achterhuis' description of Marx's work as utopian because it was a building block for the design of the communist states.

neo-Marxists such as Marcuse. *Walden II* by the psychologist Skinner (1948) is one of the last serious utopias.

It should be noted that there was a sharp decline in the twentieth century in the intellectual appreciation for the utopia. In particular after World War Two, reflections on the utopist literature are generally negative. The totalitarian nature of the utopist notion was debunked by a wide range of philosophers such as Popper, Berlin, Arendt and Foucault. In itself, this is not surprising in a century that witnessed two totalitarian systems with a historically unprecedented number of victims of state and *Gemeinschafts* terror. In addition to Communism and Fascism, Foucault also exposed Western democratic welfare states as being utopian society experiments, i.e. creatable total societies.[15] The twentieth century has consequently been widely viewed and criticized as the century of *utopias put into effect*.

It is precisely the assumed reality of the utopia that has led to an ambivalent intellectual attitude to utopism. The utopist imagination was unmistakably the subversive instrument of enlightened modern intellectuals, but came to be linked in the twentieth century to the most violent reigns of terror. As regards the utopian imagination, I think it would be wise to draw a distinction between *utopian desire* as the capacity to reflect on the non-existent and *utopian system thinking*, which aspires to the systematic and detailed description and if possible the realization of a system.

Achterhuis (1998) is in favour of reserving the term *utopian* for utopian system thinking, and convincingly demonstrates and rejects its immanent logic.[16] He refers to the utopia as a secret dream with an underlying desire for power, absolute power, but one that soon turns into a nightmare. I feel it is wise though to appreciate the utopian imagination as an autonomous human faculty. The desire for the non-existent is precisely what makes it possible to transcend the obviousness of the existent. What is more, with the rejection of the explicit utopian imagination, the view of the implicit images of the future used in culture and politics also disappears, as does the debate about it.

Let us now try and evaluate today's utopian desire. The explicit utopian imagination with the ideological inspiration of the 1960s and 1970s would seem to have largely faded away. Achterhuis (1998, p. 151) notes that "the dominant intellectual climate of the 1970s can undoubtedly be viewed as utopist," and we might rightfully add that the 1990s were definitely anti-utopist: modernity—indeed—without illusions. But the absence of any illusions still does not necessarily mean there is

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[15] The American philosopher and pragmatist Richard Rorty, who expressed his appreciation for "my liberal utopia" (Rorty 1989, p. xvi) was an exception in this connection. In *The Cultural Turn* (1998), the Marxist Jameson also disparaged the view of the utopia as taboo, which he saw as a tactic on the part of neo-liberalism to impede fundamental criticism of the capitalist system. I can also refer the reader to Hardt and Negri (2000).

[16] He does not make any statements about utopian desire, except to say he does not want to talk about "the great chain of human hope" (Laski 1976 in Achterhuis 1998, p. 14). Crombag and Van Dun are less subtle when it comes to this point; in essence they would seem to reject any form at all of utopian imagination as not only being unrealistic but also as being excessively risky.

no utopian desire generated by discontent with the existing situation. In essence, it has simply gone underground.

What is more, contemporary utopian desire has assumed a different form than in the modern era. It is no longer a matter of equality, it is now a matter of safety. "Much as the utopia of equality was characterized by an abundance of substantial positive aims for social change, the utopia of the risk society is extremely negative and defensive," Beck casually comments (1992, p. 49). In the risk society, the aim is not to achieve good, the aim is to prevent evil. It is not *need*, according to Beck, it is *fear* that is the organizing motif of the risk society. Before going into this idea in greater detail, I would like to give an example of a nineteenth-century utopist novel and then go on to describe the features of utopias.

## Bellamy's year 2000

In the past, the year 2000 always had a special attraction for visionary thinkers. In 1887 for example, Edward Bellamy published the novel *Looking Backward 2000-1887*. It was a best-seller in the United States in the nineteenth century, second only to *Uncle Tom's Cabin* in this respect. The book was translated into any number of languages and inspired an international movement that still has supporters today. In the hope of gaining greater insight into the nature of utopias, I use this utopist description of a future that is now the present.

After being hypnotized in the cellar of his home Julian West, the main character in the novel, falls into a deep sleep. '. . . lying down on the bed in my dressing-gown, assumed a comfortable attitude, and surrendered myself to the manipulations of the mesmerizer. Owing, perhaps, to my unusually nervous state, I was slower than common in losing consciousness, but at length a delicious drowsiness stole over me.' (ch. 2). He wakes up in the year 2000. "This is the tenth day of September in the year 2000, and you have slept exactly one hundred and thirteen years, three months, and eleven days" (ch. 3), says his host Dr Leete, who now lives in a new house on the same spot as West's home.

West enjoys the hospitality of Dr Leete's family. The doctor tells him all about the radically altered society of 2000, which leads to some very bizarre conversations: "what solution, if any, have you found for the labor question?" "I suppose we may claim to have solved it" (ch. 5). Dr Leete tells West all about how people are now organized "in one big company" where everyone harmoniously accepts the existing labour relations. There are no more parties, but there are also no "capitalists." The nation has united all the interests in itself, and thus solved all the differences.

Work is now done in the framework of a kind of general conscription, but it is not compulsory. "It [work] is regarded as so absolutely natural and reasonable that the idea of its being compulsory has ceased to be thought of" (ch. 6). People work for twenty-four years, and do whatever work is suited to their particular talents. Technological advances have made it possible to develop an extremely efficient

economic system where money no longer serves a function as the reward for work. Trade and the monetary system have been abolished. All consumer goods are now available at storehouses where people can come and get whatever they need by simply using a credit card. Everyone is provided with the same amount of credit on the basis of their *humanity*. "Now that industry of whatever sort is no longer self-service, but service of the nation, patriotism, passion for humanity, impel the worker as in your day they did the soldier. The army of industry is an army, not alone by virtue of its perfect organization, but by reason also of the ardor of self-devotion which animates its members" (ch. 9).

In the year 2000, the world is organized down to the very last detail. The society West finds himself in can perhaps best be described, in contemporary term, as a perfectly organized consumer society. The nation is a carefully regulated, well-run machine where—and this is an important item for us—crime has become an anachronism. Let me illustrate this idea with the following dialogue (pp. 109 ff.).

*'In the course of an early morning constitutional I visited Charlestown.*
*Among the changes, too numerous to attempt to indicate, which mark the lapse of a century in that quarter, I particularly noted the total disappearance of the old state prison.*
*"That went before my day, but I remember hearing about it," said Dr. Leete, when I alluded to the fact at the breakfast table. "We have no jails nowadays. All cases of atavism are treated in the hospitals."*
*"Of atavism!" I exclaimed, staring.*
*"Why, yes," replied Dr. Leete. "The idea of dealing punitively with those unfortunates was given up at least fifty years ago, and I think more."*
*"I don't quite understand you," I said. "Atavism in my day was a word applied to the cases of persons in whom some trait of a remote ancestor recurred in a noticeable manner. Am I to understand that crime is nowadays looked upon as the recurrence of an ancestral trait?"*
*"I beg your pardon," said Dr. Leete with a smile half humorous, half deprecating, "but since you have so explicitly asked the question, I am forced to say that the fact is precisely that [ . . . ] nearly all forms of crime known to you are motiveless now, and when they appear can only be explained as the outcropping of ancestral traits."*
*[ . . . ]*
*"We do without the lawyers, certainly . . . It would not seem reasonable to us, in a case where the only interest of the nation is to find out the truth, that persons should take part in the proceedings who had an acknowledged motive to color it."*
*"But who defends the accused?"*
*"If he is a criminal he needs no defense, for he pleads guilty in most instances," replied Dr. Leete. "The plea of the accused is not a mere formality with us, as with you. It is usually the end of the case."*
*[ . . . ]*

*When he makes a false plea and is clearly proved guilty, his penalty is doubled. Falsehood is, however, so despised among us that few offenders would lie to save themselves."*
*"That is the most astounding thing you have yet told me," I exclaimed. "If lying has gone out of fashion, this is indeed the 'new heavens and the new earth wherein dwelleth righteousness,' which the prophet foretold."'*

There are a number of striking similarities between the world Bellamy envisioned and the world as it actually is at the start of the new millennium. In particular, the strict way work is organized and the rise of mass consumerism are recognizable. The fundamental differences are nonetheless of greater importance. This can be illustrated by the difference between Bellamy's credit card used to fill each individual's personal needs and our present-day credit card used in keeping with each individual's personal income. The dominance of money, social inequality, and the differing interests and crime rates are only a few striking differences between our world and Bellamy's. Although it is tempting to make further comparisons, the essence of the utopian imagination does not lie in predicting the future, it lies in imagining the possibilities.

According to Achterhuis (1998, pp. 55 ff.), a combination of characteristics creates an immanent utopian logic. I shall briefly describe a number of the similarities of utopias that he distinguishes. We recognize most of them in Bellamy's utopia described above.

*The subordination of the individual to the collective* (in Bellamy's case to the nation). Many utopias are characterized by extremely intensive social control, though it is striking that community members frequently do not experience it as control at all. Individual happiness coincides with happiness derived from the community or imposed from above. Crombag and Van Dun (1997) speak in this connection of the will of all as being the utopia's Achilles heel.

*The perfectability of society.* The utopist descriptions assume it is possible to create an ideal world, especially via technological advances. Achterhuis notes how this idea differs from the premodern prophecies such as the Christian ones. The notion of passively waiting for the new world has been replaced by the idea of actively making it happen.

*The relation between the totality and the detail.* Most utopias are characterized by holistic depictions of society conceived down to the very last detail. Foucault describes this based on Bentham's work as the panoptic principle, with central control exerted over the tiniest movements.

*The radical departure from the existing context.* Utopist descriptions are frequently generated by what is perceived as an unbearable present, or are depicted as such. In Bellamy's book this departure from the existing context is graphically illustrated by repeatedly comparing the ideal Boston of 2000 with the Boston of 1887. It is obviously linked to the modern belief in progress.

*Triumphing over hunger and love*. It is often the aim of utopias to triumph over the most elementary natural needs. In particular, they solve the problem of scarcity and thus put an end to differing interests.

*The exclusion of outsiders*. The purity of the utopia leads to an elimination of elements perceived as impure. In fact a strict distinction is generally drawn between good and evil. Bellamy seemed to virtually exclude even the possibility of deviance in his nation.

In the combination of these characteristics lies the necessary but in Achterhuis' view fatal logic of utopist thinking. The philosophical theory underlying utopist thinking is generally *utilitarianism*; a society strives for maximum happiness for the largest possible number of people. Individuals adjust to the laws of society because this improves their chances of being happy. According to this approach, the enemy of this *new man* lies in the individual will if it deviates from the general will. This makes it clear that the utopist has little choice but to find ways to triumph over deviant individuals and keep them under control.[17]

**A new moral order**

It is clear from the characteristics of the utopia Achterhuis describes that for postmodern man, putting a utopia into effect is not a very attractive prospect. There is a willingness on the part of the individual to adjust to the collective in local and intimate situations, but not in any other ones. There are also strong doubts about the perfectability of society, desirable though it may be. And the total nature of the utopia is diametrically opposed to the universally observed fragmentation of culture and morality. Yet there is good reason to view the safety utopia as a dream world that has been put into effect. The question posed at the beginning of this chapter about the motivation behind the ethical codes of institutions seems to correspond to the characteristics of the utopia described above.

To substantiate this idea, I refer to *L'angélisme exterminateur; essai sur l'ordre contemporain* (1993), a book by the French political philosopher A. G. Slama.[18] In this book, Slama describes a new moral order based on the desire for safety and risk reduction. Despite the non-political *phenomenon*, politics and morality come together in this new order. Politics, according to Slama, has been overcome by the widely supported prevention ideology. The destructive *angelism* referred to in the title of the book pertains to the conglomerate of experts, advisory bodies and evaluation commissions that are affiliated with the state and design an endless outflow of new moral rules and codes.

In Slama's view, these rules increasingly interfere with the lives of individuals. It is not the expert's aim to be malevolent. On the contrary, the motivation driving

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[17] I go into this finding in greater detail in Chapter 6.
[18] This section is based on an article I wrote with Bas van Stokkom (1995).

him usually bears witness to a genuine concern for the people's well-being and a desire to improve public health and create social safety. But without even being aware of it himself, according to Slama the expert becomes a malevolent figure, an angel of destruction. To allow social traffic to function more smoothly, he deprives individuals of their responsibility and under the guise of a love of humanity, he reduces the individual to an expense item.

According to Slama the expert—the physician, the engineer and the social scientist alike—exhibits a missionary drive, presenting the people with what is best for them (a healthy life, a good environment, safe traffic). The expert stipulates new rules for hygiene and social prevention, e.g. the proliferation of norms for food, the abundance of medical metaphors, and the obsessive theme of contamination, and forces the issue of social risks, e.g. of smoking or exceeding the speed limit.

Taking high safety standards as the policy starting point, multifarious rules and regulations interfere with the lives of individuals even before they have made any mistakes or done anything wrong. This kind of preventive policy has considerable consequences for the normative position of the individual. "The entire population is considered irresponsible in advance" (Slama 1993, p. 256). Everyone is a suspect, a potential offender who should be apologizing even before he does anything. Thus *l'état préventif* creates a "soft or benevolent totalitarianism" that has elevated safety, hygiene, health and durability to its highest principle. Anyone who wants to withdraw from the preventive regime will soon be suspected of having an irresponsible attitude.

According to Slama, there is no such thing as the value and norm crisis so often assumed to exist. On the contrary, he refers to a tyranny of values propagated by *virtue instructors*. These moral instructors convince people—e.g. via the media— that they ought to feel guilty if they do not adhere to the new moral codes. The result of the prevention ideology is an abundance of rules and regulations, procedures and control mechanisms. It is due to this growing regulation though that it is becoming so hard to respect the rules. The result is a generalization of suspicions. An excess of preventive regulations thus contributes towards a devaluation of the law (Slama 1993, p. 125). According to Slama, distrust has triumphed in the prevention state. Hope and progress barely mean much any more. People are happy with what they have and tend to develop a defensive mentality.

Fear flourishes in a morality of this kind. People are often paralysed by fear without knowing exactly why. In Slama's view, fear in times of despair leads people to embrace a desire for safety. How this safety is organized revolves around the only inalienable value we have left, life itself. We are too skeptical and not naive enough to still seriously believe in the royal twosome that accompanied the era of political emancipation and the rise of the welfare state: the True and the Good. But Safety and Vitality give this duo a new lease on life.

Since individual responsibility becomes secondary to prevention and predictability in this new moral order, the system starts to exhibit some totalitarian features. After all, a free society ought to be able to keep the predictability of

people's behaviour under control. In as far as Slama envisions any possibilities at all for escaping the new moral regime, he refers to a revaluation of individual responsibility. He is in favour of people accepting personal liability and taking their own precautions. He has great expectations in this connection as regards the rehabilitation of punishment such as sizable fines, since this would appeal to people's sense of individual responsibility. The moral reproach and assignment of guilt would, he feels, serve as a learning experience so that people's sense of responsibility would be reinforced, an effect that is too noncommittal in restitution regulations for compensating damages.

Slama's analysis sets one thinking. He cites a number of negative trends in what Van Stokkom and I called *the safety state* in 1995, i.e. the power of experts, paternalism, the tendency to think in terms of risks, and the preventive regulation of society. Like many other authors (e.g. Garland 2001 and Braithwaite 2000), he focuses on the growing extent of social control. Since so few areas are unsuitable for being organized by experts, there is no end to the professional striving towards legislative regulation. This desire for control leads to a growth of police and other control agencies,[19] and to the systematic prediction of behaviour and classification of people according to the risk they represent.

It is very tempting from a perspective of culture criticism to follow Slama's example and reject the new social order linked to the desire for safety. Yet I feel this rigorous a rejection would be problematic and all too facile. There is no denying the real presence of social risks and the corresponding real need for safety. There are factors underlying contemporary society's desire for safety that can not simply be ignored: the reality of technological threats, open borders, terrorism, anonymity and rising crime rates. The reality of people's sense of wanting to be safer has to be accepted, even if only as a political problem.

People's need for safety and prevention is something that is real, it is not just something they have been talked into, as Slama would have us believe. His term *safety ideology* refers to a constructed development that individuals are in danger of becoming victims of. But what the authorities are expected to do is dispel the people's fear and discontent. Disasters like the airplane crash in the Bijlmermeer residential neighbourhood and the fires that destroyed a fireworks factory in Enschede and a crowded nightclub in Volendam, all resulting in numerous casualties, demonstrate that a stricter safety regime is now being demanded of the authorities. They are not reproached for introducing excessive regulations but for a failure to enforce them. In other words, there is a huge demand for *angelism* and it should be examined on the basis of concrete phenomena.

In keeping with the diagnosis formulated above, the present-day discontent and desire are not steered by one factor, they are steered by two related ones: risk and

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[19] It might be wise in this connection to cite the detailed analysis by Ericson and Haggerty in their book *Policing the Risk Society* (1997). The police increasingly serve as the supplier of expertise on criminals, risks and safety arrangements, and this is occurring at the expense of more social forms of police behaviour.

protection, freedom and certainty, vitality and safety. Against this background, I would like to define the concept of the safety utopia as the unattainable pursuit of an optimum link between vitality and safety. The risk society has produced its own utopia, i.e. the union of two opposing needs, the need for freedom and the need for safety. In practice, it is only logical that this situation should lead to all kinds of opposing tendencies and tensions. It makes it clear why there is so much ambivalence in politics and policy, and allows us to understand why people demand the enforcement of rules they do not want to adhere to.

# PART  II

# CHARACTERS AND MANIFESTATIONS

# CHAPTER 3

# THE PORNOGRAPHIC CONTEXT OF SEX CRIMES[1]

*The vitality of contemporary culture is evident from its libertarian sexual morality. Free morals are accompanied however by strict rules of day-to-day etiquette. In a context of sexual liberation, the sex offender—in particular the sexual child abuser—is now the personification of the other side of the coin.*

Some very unprecedented things were said when the Justice Department Budget for 2000 was discussed at the Dutch Parliament in November 1999. The debate focused almost entirely on child pornography, sex crimes and the effectiveness of mandatory hospitalization for convicted sex offenders after their sentences, even though these topics only pertain to a small fraction of the Justice Department Budget of ten billion euros. Agitated Members of Parliament came up with figures on repeat offenders and terms like chemical castration and life sentences and seemed to be vying to see who wanted sex offenders on parole for the lengthiest period of time after release from prison. According to the papers, all the Members of Parliament seemed eager to join the madness. The right-wing Minister of Justice complained he was the only one to keep his wits about him.

Although there is a complete consensus on the seriousness of sex offences and the importance of combating them effectively, the sex offender in general and the child abuser in particular are what the whole parliamentary debate centred around. It was reminiscent of the analysis of moral panic criminologist Stanley Cohen gave in the 1970s. "Society seems to be regularly subjected to periods of moral panic. A certain condition, individual or group comes to the fore and is defined as a threat to the interests of society" (Cohen 1973, Introduction). The scapegoat effect that Beck (1986) views as a feature of the risk society seemed to be in full swing in the focus of the crime and safety debate on sexual child abuse.

Although it is tempting, intellectually speaking, to use this argument to brush off the whole debate, it might be wiser to try and understand the essence of the commotion. No one questions the seriousness of the offences, society's indignation is understandable, and the need to find an appropriate response is thus part of the political responsibility. Everyone can empathize with the intensity of the emotions;

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[1] This chapter was previously published in the *European Journal on Criminal Policy and Research*, vol. 8, no. 4, 2000, pp. 441–457.

everyone is bothered by sex offences, especially if there are children involved. Against this setting, I would like to take a closer look at the cultural context in which sex crimes and the responses to them take place. I am particularly interested in the moral context, our contemporary sexual morality.

In the first instance, it is striking that sexuality occupies such a predominant place in public life, perhaps one that is uniquely prominent in the history of man. Sexual undertones are evident all the time in video clips and advertisements, in television commercials and on the Internet. At the same time, there is a great deal of prudence in how the sexes interact, and this is also confirmed in a political sense.[2] In the 1980s, our attention was mainly focused on sexual abuse in domestic settings.[3] In the 1990s, the debate largely turned to child pornography and violent sex crimes against children. Although with the exception of a short period in the 1970s, both these sexual perversions have virtually always been frowned upon, it is striking how they now dominate the public debate.

In this chapter, I examine the meaning of sex offences in an era of unprecedented openness about sexuality. What does this reveal about the safety utopia described in Chapter 2? In an effort to properly address these questions, first I describe the development of our sexual morality. Seeking guidelines, I mainly consult a book by Anthony Giddens (1992) on this topic. I then focus on the meaning of pornography and its production, consumption and consequences. Lastly, I address the issue of why it is that child pornography and sex crimes against children are now generating so much moral indignation.

## Sexual identities

Sex is a given as a biological faculty, but culturally speaking it is a "many possibilities thing." Each culture generates its own ways of regulating sexual activity.[4] This cultural regulation can be subject to enormous changes. In her book *Erotic Wars* (1990), Lilian Rubin gives an account of how sexuality evolved in the twentieth century. She does so based on interviews with thousands of heterosexuals of all ages. The experiences of her respondents document a spectacular change in how sex was perceived and experienced over a period of about fifty years. The stories confirm the common sense notion that sex has expanded from a secretive and painful affair into a prominent everyday matter.

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[2] In 2000 the European Commission launched a whole campaign against sexual violence and sexual harassment at the workplace.

[3] See for an analysis of sexual abuse: Boutellier 2000, Chapter 4. In this analysis, I describe three developments, the rise of the women's movement, the altered position of the child and the role of psychotherapy. I feel the development of our sexual morality is of particular importance as regards the shift of attention related to sexual child abuse, particularly violent sexual child abuse.

[4] *Culture* develops and mainly comes to the fore in connection with certain natural and social differences, for instance between men and women, the old and the young, good and evil, birth and death, and ethnic differences. See e.g. Douglas (1973).

Compared to earlier generations, nowadays people start having sex at a younger age, with more partners and in more varied forms. These changes, according to Rubin, hold true more for girls than boys. The most striking thing about the stories Rubin recorded is perhaps the openness of her respondents. Sex has become something people can talk about quite openly. One might even say that if they are asked to, people seem to like talking about their own sexuality. There is almost a need to reflect upon and talk about sexual experiences and ideas. Indeed, sex is of vital importance to the respondents.

This relation between the self and sexuality is central to the book *The Transformation of Intimacy; Sexuality, Love and Eroticism in Modern Society* by Anthony Giddens (1992). It follows much the same lines as Foucault's writings on sexuality and elaborates upon his own work on the consequences of modernity as regards the image of the self (Giddens 1990). In a world where traditions are increasingly relegated to the background, we make permanent choices about what we want to do with our lives, who we want to be and how. One might speak in this connection of *life politics* or *identity politics*. Giddens describes how the modern era, with its roots in the Enlightenment, has evolved into a reflexive modernity,[5] where thinking and speaking about the self is a core issue. Our personal lives have become an open project, which is accompanied by new expectations, demands and fears.[6]

In his book on intimacy, Giddens analyses how identity politics increasingly became a key to sexuality in the course of the twentieth century. Especially in the last few decades, a veritable revolution unfolded in this sense because of what he calls *plastic sexuality*, a rather moralizing term that refers to sexuality no longer linked in any way to reproduction. "Plastic sexuality can be moulded into a personality trait and is intrinsically connected in this way to the self" (Giddens 1992, p. 2). Sex just for the sake of sex has become a legitimate option each individual has to take a stand on in one way or another and in various stages of life without being steered by traditional views.[7] Postmodern man *is* not only a sexual being, he *has* a sexual view.

Giddens notes that homosexuals were trend-setters in this respect. They were by far the first to choose a sexual lifestyle of their own. Homosexual identity politics not only set the trend because it had no tradition and no possibility or risk of reproduction; more importantly, a sexual lifestyle was developed between *equals*. With no biological risks, cultural traditions or gender differences, a sexual reflexiveness grew that was later adopted by heterosexuals as well. "Sexuality functions as a flexible characteristic of the self, a primary link between the body, self-identity and social norms" (Giddens 1992, p. 15).

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[5] Ulrich Beck and Anthony Giddens developed this concept independently. On the grounds of similar analyses, they agree with Zygmunt Bauman and emphasize the sociological need for identity politics, and it is in this connection that I previously introduced the concept of identity uncertainty.

[6] See also Sennett (1998), who cites the increased uncertainty in identity formation caused by the flexibility of late modern capitalism.

[7] This does not mean traditional views no longer play a role, it simply means they have to compete with other options and have thus in essence also become a choice.

This position follows the line of argument in *The History of Sexuality* by Michel Foucault, the first volume of which was published in 1976. He notes that the origin of the sexual identity—the definition of one's own subjectivity in terms of sexual nature as in the case of *the homosexual*—goes back to the eighteenth century. It is already a product of the modern era, more specifically as of the advent of the science of sexuality. It is illustrative in this respect that the concept of sexuality was not applied to human beings until the end of the nineteenth century (it was used up to then in the field of zoology).[8] In line with his earlier work on the genesis of the prison (and the field of criminology) and the mental hospital (and the field of psychiatry), Foucault sees the emergence of sexual identity as a moment in the refinement of power structures.

The prison and the mental hospital, according to Foucault, are physical manifestations of the production of ever more detailed knowledge and ever more refined control over the conditions and behaviour of individuals. He refers in this connection to the microphysics of power. In *The History of Sexuality* (1978) he concentrates on the identity politics of modernity. "The subject is invited to produce a truth discourse on his sexuality that is in a position to affect the subject himself" is how Giddens (1992, p. 20) summarizes Foucault's position. Erotic pleasure becomes sexuality, sexual variations are linked to identities, a *truth* emerges about sexual conduct, where first there was only a *reality*, which was acknowledged in a moral and not in a scientific sense.

At the end of the nineteenth century, sexuality became a source of concern, a form of conduct that required *solutions* and that power discourses were constructed around as regards women, homosexuals and children. The discovery of the sexual identity, according to Foucault, was crucial to the formation and consolidation of modern social institutions such as the nuclear family, the school, and regulated labour. Identity politics vis-à-vis sexual conduct becomes all the more cogent if we compare it to the Ancient Greek *care of self*, which has more to do with asceticism and eating habits.[9] Until far into the twentieth century, the belief in God and the struggle about it was a central theme in the identity experience. So the sexual core of the modern conception of the self is not to be taken for granted.

So in Foucault's view, our sexual identity was on the cultural agenda long before the sexual revolution of the 1960s. This is why he rejects the notion that sexuality was repressed and then liberated in the 1960s. Sexual identity has its roots in a distant past.[10] This historical tracing of the present-day concept of the self is

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[8] The term sexuality was used for the first time in 1889 in a medical book in connection with women's diseases.

[9] This is the subject of Foucault's *The History of Sexuality*. *Volume 3. The Care of the Self* (1986).

[10] "We now formulate the general hypothesis I present in this book. The society that developed in the eighteenth century—regardless of whether one calls it bourgeois, capitalist or industrial—did not respond to sex with a fundamental refusal to acknowledge it. On the contrary, it put a whole apparatus into motion to produce veritable discourses on sex. Not only did it speak amply about sex and force everyone to speak about it, it took it upon itself to formulate its truth stipulated in rules" (Foucault 1976, English translation 1978, p. 69).

valuable in itself, but does not do justice to the radical changes that have since taken place. Giddens refutes the suggestion of a direct line going from the Victorian era to the present. It is especially visible in the stories recorded by Rubin, where the experiences of these sexual identities play a central role. How people perceive and experience their needs, codes and norms all goes towards what I would call a mentality that is increasingly focused on sexuality.

## Intimacy and eroticism

In understanding the sexualization of the self, Foucault's reference to a microphysics of power focused on the self is not very useful. It barely does justice to the reality of our sexual morality and experience and the recent changes that have occurred. I agree with Giddens that an independent analysis of sexual morality—*an analysis of intimacy* in his terminology—is called for. In the course of the nineteenth century, marriage changed from a primarily economic tie into a romantic relationship. Conjugal rights and obligations acquired a mental enhancement of mutual desires and expectations that were mainly to the benefit of the woman's position. More virtue was required of men[11] and women were gradually released from the reproduction compulsion of the traditional marriage.

The romantic ideal of a relationship focused on the partner is now commonly accepted, at any rate as mental representation. This ideal presumes the existence of intimacy, which is not the same thing as lust or sexual passion. "It presumes mental communication, a meeting of the souls that is restorative" (Giddens 1992, p. 45). Romantic love is focused on a future and implies stories about the self and the other, with all the problems this entails.[12] Romantic love differs in this sense from passionate love, which Giddens feels can be viewed as a more or less universal phenomenon and that was—e.g. in aristocratic circles—no longer connected to the arranged marriage. The *ars erotica* was then practised by men extramaritally with prostitutes, concubines or mistresses. Romantic love created the mentality within which the quest of self-identity could unfold. It is based on a self-image derived from the quality of the relationship, with sexuality playing a derivative role.

The rise of family planning and birth control at the beginning of the twentieth century made it possible to separate the sexual experience from reproduction. The introduction of the pill in the 1960s made this separation virtually universal. It enabled women in particular to claim their own sexuality, which was no longer confined by matters of reproduction, tradition and male dominance. This is why Giddens feels relations between the sexes have entered a new stage. Our

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[11] This is illustrated by a motto of the first wave of the English women's movement: Votes for Women, Chastity for Men.

[12] Giddens notes that the importance of Freud does not lie in his articulation of the modern preoccupation with sex, but that he "opened up the relations between sexuality and self-identity . . . and showed how problematic they are" (p. 30). Psychoanalysis provided a setting for a "reflexive story about the self" (p. 31).

present-day sexual mentality is characterized by an erosion of the romantic ideal. "In contemporary times, the ideals of romantic love tend towards fragmentation under the pressure of female sexual emancipation and autonomy" (1992, p. 61).

Following naturally from romantic intimacy, a new *special relationship* developed that Giddens calls *confluent love*. In this new relationship between potentially equal partners, intimacy merges with *ars erotica*, but without the notion of remaining faithful for life that characterizes the romantic marriage. Together with the romantic ideal, the sexual experience comes to the fore, accompanied by psychotherapy, sexual education, popular magazines and the mass media. The relationship should be *total*. Of course it entails certain problems. The expectations are huge, as are the disappointments this confluent love can lead to. "If this kind of love is not attained, the individual is ready to pack up and leave" (1992, p. 84).

The total relationship is under the permanent threat of possible termination; it presumes a permanent process of innovation and evaluation. Today's *separating and divorcing society* is however an effect rather than a cause of the rise of confluent love (1992, p. 61). This radical change in intimacy is "about sex and gender, but is not limited to them" (1992, p. 96). It also pertains to the ethics of personal life, the field where people reflect upon and argue and negotiate about their choices and decisions. It also affects relations between parents and children, where authority has become more evenly distributed and children now have a voice of their own. "People have to invent how to treat and construct their relatives, and thus a new ethics of daily life" (1992, p. 98).

This pressure has the greatest consequences for men, whose advantageous traditional conventions—male dominance, the double standard, the right to a *male nature*—simply went up in smoke. In particular, the male experience of sexuality acquires problematic and often compulsive aspects in this context. Giddens illustrates this by describing the obsession with sex that led in America to Sex Addicts Anonymous.[13] Male sex addicts differ from the Don Juan and Casanova of the past in that the art of seduction has lost much of its meaning in this era of emancipation. Women are more available for sex, and are autonomous and equal in their choices. The loss of the traditional framework leads to an isolated and paradoxical sexual experience as regards lust objects whose behaviour is so autonomous.

In the past, sexual violence was mainly prevalent in the margins of social life, e.g. in wartime. It is true that in itself, sexual conduct generated by male dominance can be viewed as violent, but in the moral context at the time, it was not felt to be violating any norms. The patriarchal dominance of men also pertained to sexual relations, but they were embedded in a system of mutual expectations and codes. In the past the power of men was regulated in terms of rights, property, and limited obligations.[14] These obligations were in the realm of courtesy and protection. One might speak of a patriarchally determined equilibrium, which is ultimately to the advantage of men but nonetheless provides a certain extent of protection for

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[13] It is, by the way, an organization that women can also join.
[14] Centuries ago, rape was sometimes punished as a crime against the husband's property.

women. Violent sexuality was a violation against a balance between the sexes that might have been unequal but still had very clear norms.

The equality of women in public, on the labour market, in marriage and in sexual interaction provides a totally different context for sexual violence. This is no longer out of the ordinary in unequal relations between the sexes. Instead it is viewed far more as a departure from a sexual morality based on equality. Sexual violence signifies a ruthless rejection of female autonomy, an intrusion of power in a context of equality, and a male inability to achieve intimacy. "A great deal of male sexual violence is produced more by insecurity and powerlessness than by an uninterrupted continuation of patriarchal dominance. Violence is a destructive reaction to the decline in female complicity" (1992, p. 122). From this perspective, there is the paradoxical situation where female autonomy is creating its own form of violent subservience.

## The pornographic context

The radical shift in the Western sexual mentality has unfolded in the context of growing equality in personal relationships and the resulting high demands now being made of both partners. There is greater openness, more variation in how people experience lust, and more promiscuity. In this new situation, perverse forms of sexuality have come to be viewed as merely other variations. This has been a gradual trend. Freud still spoke of perversions even though he viewed these inclinations as part of the normal human predisposition (he referred to the polymorphous perversity of the human drive). Later Havelock Ellis, author of the seven-volume *Studies in the Psychology of Sex* (1897–1928), referred to sexual deviance instead of perversion, which was of particular importance to the gay movement. But the matter was settled once and for all at the time of the sexual revolution in the1960s and 1970s, when perversions became variations.

Giddens views what Jeffrey Weeks (1986) describes as the *decline of perversion* as an effect of modern identity politics. "The replacement of perversion with pluralism is part of a wide range of changes accompanying the expansion of modernity" (p. 34). In this decline of perversion, pornography emerged in the 1970s as a welcome confirmation of sexual multiformity. The production of pornography surged in on the waves of the sexual revolution in the 1970s. It was simultaneously a liberation from conventions, an exploration of sexual multiformity, and a confirmation of the sexual core of the modern identity. It is one of the most striking manifestations of the culture of vitality.

Although the rise of the pornography industry was initially linked to social protest, it goes way beyond it. Nowadays pornography is available everywhere and in every conceivable variation. At the computer we are only three mouse clicks away from hard pornography, there is audio-sex on the telephone at any moment of the day or night, softer versions are broadcast on television, and there is always the video rental shop around the corner or pay TV. In retrospect, the

first female nude appeared on Dutch television in 1968. Public sex has become an everyday matter at breathtaking speed.

There was initially a political counter-offensive of sorts, especially against showing hard pornography at the cinema. It is now a quarter of a century ago that Dutch Minister of Justice Van Agt made an effort to restrict the growing pornography industry by objecting vociferously to *Deep Throat* being shown at the cinema. His proposal was to restrict its distribution to premises with no more than 49 seats. Pornography would only be allowed free rein at these special premises where addicts could come for their visual shots. Van Agt's proposal was widely mocked at the time, and his 49-seat cinema can be viewed in retrospect as the last throes of a dying era of sexual prudence and romantic love.

The technology revolution and the free market are two obvious factors in the massification of pornography. The notorious flop of Philips' Video 2000 system in the 1980s illustrates how closely linked sex, the market and technology are. According to many experts, it was technologically superior to the rival systems at the time. It lost the battle for the video market though because there were barely any pornography tapes on sale using this system. This was widely viewed as a marketing error, but what it really meant was that Philips did not want to bring pornography into the home.

The connection between the free market and the world of technology has helped make pornography an everyday matter. You no longer have to go out looking for it, and you don't even have to spend any money. Every living room, even in the most prudish household, is now potentially a small pornography cinema. I think this free availability of pornography means an essential change in the significance of pornography. The supply of pornography on commercial television channels reconfirms its status as something very ordinary. Pornography has become a consumer good comparable with soap operas, documentaries, quizzes, soccer games, violent movies or any other kind of entertainment.

Three arguments have always played a role in the debate on pornography, i.e. decency, dignity and protection. The *decency argument* holds that sexual drives are an intimate matter that have no place in public. It was in accordance with this argument that in the 1920s, Hollywood had strict regulations about exactly how long a kiss could be shown on screen. Sexuality was associated with shame and guilt, and it was a very private matter that was no one else's business. This decency norm was no match for the hypocrisy reproach. At the time of the sexual revolution, pornography was perceived as the emancipation of lust. Naked women on television were the final refutation of the decency argument. Open sexuality became synonymous with a striving for freedom. Pornography became a form of freedom of expression.

The *human dignity argument* is strongly connected to a religious worldview linking sexuality first and foremost to reproduction. Sexual lust is viewed as a necessary biological drive that essentially undermines human dignity. Its purpose is to serve the procreation of the human species and the church doctrine holds that it is permissible if and when it reinforces the conjugal state. This argument is still

used, but it has lost ground to the argument about man's right to self-fulfillment. The secularization process and introduction of the birth control pill helped put an end to this limited conception of sexuality. The individual is now uppermost and his uninhibited pursuit of pleasure is the utmost good.

The *protection argument* is used by the women's movement as a reaction to the sexual revolution of the 1960s and 1970s. Pornography turns women into passive prey, or so its feminist opponents argue. It is not an often used argument, especially now that feminists are increasingly interested in allowing women to freely pursue their own pleasure without being patronized in any way. Instead of asking for protection, they prefer to help make women more articulate. The implicit argument is now that if articulate women want pornography, whether as producers or as consumers, they have a perfect right to it.[15]

A borderline is drawn though where children are concerned. Although even this borderline was almost crossed at the time of the sexual revolution, the victimhood of children as regards their role in pornography is so glaringly evident that even the pornography world draws the line here. With barely concealed pride, sex producers assure the television audience that they really are aware of where the borders lie. Pornography has since expanded all across the globe into a billion dollar industry. In a mere three decades, pornography has grown from a nice educational sex film that did away with some taboos into an omnipresent phenomenon that knows no boundaries.

## Pornography and sex crimes

The turbulent mushrooming of the pornography industry and mass consumption of its products in the past few decades can be viewed as a merging of technological possibilities and commercial motivations. It still does not however say anything about what it means as to how people experience sexuality and intimacy. The implicit message of pornography is extremely complex. In the first place, there is still the underlying promise of liberation from conventions and sexual repression. In a liberal culture, with all its acquired freedom and tolerance, pornography permanently explores the borders. Particularly in a culture like the American one, that might seem in the first instance to be so puritanical, the pornography producer can continue to use the hypocrisy argument and boast of his own avant-garde role.

In the second place, pornography has a strong effect on the consumer. It is hard to resist this appeal to our baser feelings. A hard pornography film evokes ambivalent emotions ranging from excitement to aversion, and from a need for more to a sense of saturation. The power of this pornographic appeal is so strong that any resistance is quick to be interpreted as hypocrisy. How can you resist images that are that exciting? And isn't your resistance more a sign of narrow-minded prudishness or a

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[15] This feminist stance is comparable to the one in the Dutch debate on prostitution (Boutellier 2000, Chapter 5).

patronizing attitude than of sincere reservations about the contents of the film? In addition, the actors in the film apparently chose performing in pornography films as their way of earning a living. If it is something other people want to do, is it the consumer's place to say it is wrong?

But pornography also has a third more substantial meaning within the sexual mentality described above. It serves as a counterpoint as it were to the modern relationship, where sexuality is experienced in line with the ideal of equality. Pornography presents a paradoxical argument with respect to the female autonomy that was so recently acquired. Though it confirms the liberation of the female libido, it also often denies it. This is why feminist pornography researcher Russell describes pornography as "material that combines sex and/or the exhibition of the genitals with humiliation in an effort to reinforce, excuse or encourage this behaviour" (1999, p. 3).

In this description, Russell presumes the existence of some relationship between pornography and sexual violence. Despite everything that can be said to refute the existence of any such relationship, at any rate in a direct causal sense, in her book *Dangerous Relationships* Russell does develop a relevant line of argumentation. To start with, she refers to a dozen studies that analyse the contents of pornography films and magazines. Although of course they all differ a great deal in the definitions and methods they used, she feels the conclusion is justified that many of the pornography products are violent, humiliating and dehumanizing to women. What is more, although the studies do not all agree on this point, it seems to have become increasingly the case in the course of time (Russell 1998, pp. 26–27). In Chapter 2 she documents and comments on 110 scenes from films and magazines whose texts (without visuals) are illustrations of extreme brutality.[16]

Russell then formulates a multi-causal theory on the relationship between pornography consumption and rape, which is based on the work of sociologist David Finkelhor. Finkelhor (1984) drew up this model to explain sexual child abuse. He distinguishes four conditions that lead to sexual abuse: there is a person who has *the will* to commit sexual violence, the internal inhibitions keeping him from actually going ahead with it have been undermined, the same holds true of his social inhibitions, and he eliminates the victim's capacity to offer resistance.

Russell applies this model to the influence of pornography on the rape of women.[17] In Russell's view, pornography mainly has an effect on the first three conditions. It reinforces the will to rape and undermines internal and social inhibitions. The younger and the more impressionable the men are, the more applicable these effects seem to be. Russell refers to various studies including one by Check and Maxwell (1992), which shows that by the age of 14, 90% of the boys and

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[16] The book is an adaptation of an illustrated version for which she could not find a publisher due to copyright problems.

[17] Although the theory is applicable to other forms of sexual violence as well, most of the empirical evidence he finds has to do with the relationship between pornography and rape.

60% of the girls have watched a pornography film. A third of the boys say they watch one at least once a month, as do 2% of the girls, and 29% of the boys view pornography as the major source of their sexual education (Russell 1998, p. 128).

Russell also presents other empirical evidence to show that pornography stimulates rape fantasies, sexualizes dominance and subservience, and creates a need for stronger material. She holds that it promotes the acceptance of interpersonal violence, trivializes rape, desensitizes men to rape, undermines the fear of social sanctions and peer rejection, and undermines women's capacity to say no to humiliation. This is not the proper place for an extensive discussion of the study Russell is writing about. Besides which, as is always the case with empirical evidence, there are some critical comments to be made as regards methodological and ideological aspects.[18]

Nowadays however, sexual violence does generally occur in a context with an ample supply of pornographic material. It would also seem justified to say that some of it shows the humiliation and subservience of women, which can stimulate or legitimate sexual violence for some men. As is argued above, in contemporary times sexual violence has a specific meaning. This form of violence occurs in a sexualized culture where the sexual mentality enables people to freely experience lust. But equality in relationships is the norm, and eroticism is expected to be accompanied by intimacy. In the absence of self-evident conventions though, this norm is permanently under pressure.

This leads to the paradoxical condition that erotic lust can be freely experienced within a situation that makes increasing demands on our self-control. It is only in pornography that the female lust object is still available to men in a self-evident way. According to Giddens (1992, p. 119), a lot of pornography is focused on isolating female sexuality from intimacy. In hard pornography, the power relationship is often openly a matter of force. This is how it comes about that pornography constitutes a hard core business in a sexualized culture where arguments can no longer be used against it in a liberal context, yet it is diametrically opposed to the dominant ideal of equality. In the consumption of pornography, sexual power is phantasmically experienced and enjoyed.

The contrast between freely available pornography and the requirements of prudence in daily social interaction leads to an extremely complicated moral situation. This kind of two-track morality—freedom of sexual fantasy and experience but reticence in active practice—presumes a very meticulous initiation that is not an option for everyone, nor is it apt to be appreciated by everyone. The ideal of an integral relationship is accompanied by an omnipresent pornographic appeal. In this context, men's sexual violence is a desperate attempt to obtain a sexual identity at the expense of women—and children.

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[18] Compare in this connection the debate on the influence of violent films, where studies that do and studies that do not reveal any such effects have long kept pace with each other. At the moment, the notion seems to be gaining ground that violent films do have a negative effect.

## Child pornography as counterpoint

It is difficult to say categorically to what extent pornography is the theory and rape the practice, as Russell claims.[19] It is only logical that the growth of the pornography industry should have been accompanied by an increase in sexual violence. Although this hypothesis does seem plausible, methodological problems and definitional issues nonetheless make it difficult to confirm. The question is how important this is, since every offence has its own context. Pornography and sexual offences should both be addressed based on the sexual morality and views on relationships at the time. They are at the very least related as expressions of humiliation. Pornography and sexual violence on the one hand, and equality in intimate erotic relationships on the other are two sides of the some cultural coin.

Obviously one fundamental difference between the consumption of pornography and actual sexual violence is that the former is a phantasmic act and the latter an actual criminal offence. Russell notes in this connection that this does not hold true of the production of pornography: "Pornography is no fantasy" (1998, p. 113). This is not the case though with child pornography. There is not the slightest illusion in these products of a fantasy being carried out with the mutual consent of both parties. Child pornography is simply the registration of sexual abuse and rape. Pornography and sexual abuse are one and the same in the production of this material, and there is no valid way to legitimate it.

I think the intensity of the rejection of products of this kind is generated by the fact that the sexual abuse of children and child pornography are extremes of a sexualized culture. But here the moral judgment takes a different turn, and there is no liberal argument that can legitimate the obvious victimhood of children. They are the point where the moral discontent crystallizes that accompanies a risk culture in the field of intimacy and eroticism. Sex becomes a form of what Bauman calls *experience collection* and *the criterion of individual adequacy and bodily fitness* and thus serves as a potential source of uncertainty and displeasure (1997, p. 147). There is clear friction between the demands of relationships, work situations and everyday etiquette and the kind of sexuality that is totally out in public.

Bauman feels that this isolation of sex from other forms and aspects of social relationships is a powerful instrument in the process of privatization and commercialization. As a permanent source of emotion, sex has become the target of uncontrollable market and media forces. 't Hart (2001) holds that pornography reduces people to one-dimensional beings, which is diametrically opposed to the ideal of free citizens living in a democracy. With this argument, he tries to formulate a normative view on and in this case against pornography that would also be legitimate in a liberal context. The intimate erotic experience is incorporated into a public one-dimensionality that can be either exciting or depressing.

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[19] Russell makes her views extremely explicit by dedicating her book "to all feminists who recognize that pornography is a vicious manifestation of misogyny designed to keep women subordinate to men, and who are committed to the fight for a pornography-free world."

The dissatisfaction that is evoked by a culture of this kind (and that crops up now and then in debates on television programmes that people feel are too explicit in showing sex acts) is focused on one particular excrescence that everyone agrees on, and that is the sexual abuse of children. The ideal of the intimate, integral relationship is accompanied by the ever-present appeal of pornography. This paradoxical situation comes to a head where sex with children is concerned. In child pornography and the sexual abuse of children, the point is driven home of how schizophrenic the combination is of permissiveness towards pornography and the demand for equality between men and women. These variations reveal the utmost contempt for the ideal of equality. In combating these offences, discomfort about the freedom of pornography now coincides with a desire to put this equality into effect.

The commotion around sex offences in general and the sexual abuse of children and child pornography in particular mushroomed in the 1990s. The commotion can be viewed as one of the requests for protection so characteristic of the safety utopia. The rejection of sexual violence is the other side of the historically unprecedented sexual freedom. Combating it is in keeping with the conditions of the safety utopia, where a maximum of freedom is combined with protection from its risks. More specifically, this ambivalence holds true of the pornography that is so universally available. The freedom of pornography is in sharp contrast with the egalitarian relationship between the sexes, and the protection of children is indeed its *piece de resistance*. In a risk culture, the sexual abuse of children and child pornography are the points where the moral discontent crystallizes.

# CHAPTER 4

# SENSELESS VIOLENCE AND THE SOUND
# OF SILENT MARCHES

*Senseless violence is a side effect of the vital nature of the risk culture. It also makes people identify with the victims and their loved ones. Silent marches establish the safety utopia, even if only temporarily.*

A few years ago, many people could not believe their eyes as they watched the Dutroux affair unfold in Belgium. Dutroux was suspected of murdering several young girls after abusing them sexually. His arrest caused a great deal of unrest all across Belgium. On 20 October 1996, three hundred thousand people marched through the streets of Brussels without any signs or banners, all they had was white balloons. In an interview only ten days earlier, one of the girls' parents had mentioned in passing the idea of holding a march in Brussels. At a speed unique in history and without any organization or clear theme or demands, one of the largest demonstrations ever held in Belgium took place.

Not long afterwards, a comparable situation arose in the Netherlands. The murder of Meindert Tjoelker caused quite a stir. There was one minute of silence all across the country. Joes Kloppenburg, who had been murdered a year earlier, was memorialized with a silent march in 1997. In January 1998 after two random victims were shot in Gorinchem, thirty thousand people marched. It was a national demonstration and was broadcast from start to finish on Dutch television. A number of other local marches were then organized to memorialize victims of new cases of senseless violence. What is more, citizens' committees were founded with the express purpose of combating senseless violence in society.

In comments by experts or columnists, all this is usually approached with a certain degree of scepticism. Thevissen (1997) notes that in the press, 38 of the 45 statements by experts on the white marches in Belgium are negative. They refer to a potentially dangerous outburst of irrational emotions and huge crowds of people filled with resentment. The comments are less negative in the Netherlands, but the authors do remain quite detached. In view of the response to all these steps taken by ordinary citizens, it seems only warranted to draw a link with the moral discontent I discuss above. In silent marches memorializing senseless violence, the emotions of the safety utopia are clear for all to see. In this chapter, I make an

effort to further analyse this popular movement in Belgium and the Netherlands.[1] I start however by addressing the cultural context of senseless violence.

## Vitality and violence

A great deal has been written and said about the causes of violence, and that will continue to be the case. What I focus on in this section though is not the causes of violence. Nor am I especially interested in whether or not violence is on the rise. What I would like to address is the meaning attributed to violence in the framework of the safety utopia. It is from this meta-position that I discuss some data pertaining the present-day problem of violence, since they play a role in attributing cultural meaning. I then draw a link to an above-mentioned analysis by Van den Brink in *Geweld als uitdaging* (Violence as a Challenge, 2001).

In the second half of the 1990s, the commotion around a few incidents of fatal violence led to a growing political focus on violence on the streets. In early 1998 the Cabinet sent a memorandum called *Street Violence* to the Lower Chamber of the Dutch Parliament announcing a Twelve-City Debate. One of the recommendations linked to the debate notes that more insight is needed into the nature, dimensions, circumstances and reasons underlying violence if we are to combat it more effectively. Any number of issues were dealt with in the public discussions (Ferwerda and Beke 1998). The studies that were conducted produced a number of interesting research findings (see Terlouw, De Haan et al. 1999, Beke, De Haan et al. 2001).

To start with, based on victim surveys, there were almost a million (980,000) incidents of violence in 1999 in a population of about 16 million. Only 86,000 of them were registered by the police that year—less than 10%. There were cases of molestation, rape and other sexual offences, beatings, assaults, violent muggings and extortion (with violence in almost half the cases). Neither senseless violence nor public violence (a term coined by Schuyt, 1999) are listed as such in the statistics. On the basis of a definition of public violence as "physical violence primarily directed against individuals and committed on the street" (Terlouw, De Haan et al. 1999, p. 6), the researchers arrive at an estimate of 20 to 25,000 registered cases a year.[2] In the researched regions, these offences were largely committed in three contexts: residential neighbourhoods (35%), traffic (24%) and entertainment districts (19%), with 22% committed elsewhere.

In the opinion of the researchers, disproportionate violence is used in 7% of the cases. A further qualitative analysis was made in sixty of these cases with a known

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[1] For my evaluation of the movement in the Netherlands, I use an exploratory study I conducted with several of my students (see Boutellier 2000). Far more research has been conducted on the *white movement* in Belgium; see especially Walgrave and Rihoux (1997) in this connection.

[2] The researchers do not extrapolate these figures on registered violent offences to the total. If we estimate the ratio between the police figures and the victim surveys at 1:10, there are more than 200,000 incidents of public violence in the Netherlands every year.

offender (Beke, De Haan et al. 2001). Based in part on interviews with offenders, victims and witnesses, the following six scenarios in the development of violent crimes have been distinguished: reprimand, call to order, make one's own justice, fighting, manhunt, and madness. They emphatically conclude that violence on the street is usually the outcome of an interaction process between the parties. In two thirds of the cases investigated, the violence is instigated by both sides, and half the conflicts are also ended by both sides. In most cases, the offender and the victim are thus interchangeable, or the two even play both roles.

The researchers draw sharp lines as regards the motives. "The most important motive is that the offenders do not feel they are being taken seriously enough and they feel insulted . . . violent offenders often feel superior to the victims . . . since their self-image is weak, they tend to feel they are the ones who have been wronged . . . they can not understand another person's situation . . . they are lacking in empathy . . . (this is why) it is only natural for them to revert back to their fixed behavioural repertoire . . . In this sense they perceive their own actions as being due to sheer necessity . . . " (Beke, De Haan et al. 2001, p. 11). The researchers view the concept of senseless violence as barely applicable since from the perspective of the offenders, there is thus always some specific motive. "They might be motives we don't have a lot of understanding for, but they are sill understandable" (idem, p. 12).

Although the research results are presented with the necessary reservations, they are very much in keeping with the insights formulated by Baumeister (1997) and the way they were incorporated by Van den Brink (2001). Van den Brink puts Baumeister's thesis on wounded self-esteem in a broader perspective. On the grounds of historical comparisons, he makes it plausible that this sense of self-esteem has grown in recent decades. As regards how children are brought up nowadays, he also recognizes numerous risk factors that can lead to youngsters' failure to feel connected to their surroundings. Sociologically speaking, he feels that violence mainly occurs in situations without any clear norms or supervision.

In summarizing, Van den Brink refers to a narcissistic, assertive or vital culture where in some places, under some circumstances, certain youngsters with limited social capital tend to engage in violence. He views violence as a logical effect of the modernization process. As is noted above, Van den Brink propagates the notion of a civilizing offensive that should combine three policy lines: more explicit rules of conduct, especially in situations where they are unclear, more of an investment in youngsters to make them more connected to their surroundings, and an attitude to their independence that puts it into a proper perspective. Youngsters should once again be addressed as *youngsters*.

The research results described here are very much in keeping with a diagnosis of contemporary culture in terms of a safety utopia. The vital nature of public violence clearly comes to the fore in these studies. Once we realize the figures that are involved, the relevance of the discussion will be clear. An estimated million violent offences a year means eight violent offences for every 100 people above

the age of sixteen. If they are evenly distributed over the entire population, it means that in a matter of ten years, almost everyone will have had this experience. Of course this reasoning is demagoguery. All sorts of violence are involved, and they are not all equally serious (violent acts are only reported to the police in less than 10% of the cases).[3] Lastly, violence is concentrated among certain groups of offenders and victims and in certain places.

It is no exaggeration though to state that among the Dutch, violence has become a rather commonplace phenomenon because of our own experiences, those of our friends and relatives, and the media attention focused on it. Violence among soccer hooligans for example is given so much media exposure it can hardly be ignored. What is more, violence occurs within a much larger scope of punishable conduct. In 1999 there were an estimated 4,800,000 punishable acts committed against individuals, 1,600,000 of which were reported to the police (Huls, Schreuders et al. 2001: pp. 45 ff.). Crime in general and violence in particular are a constant cause of discontent, with an accompanying need for safety.[4]

Up to now, I have mainly drawn a link between the need for safety and the general context of the risk society. It is clear though that the crime rates also feed this need. The extremely serious offences that make people want to go out and take part in silent marches occur with an inordinate amount of visible violence which in turn is part of the crime rates that are almost five times what they used to be, and all this in a situation of unprecedented hooliganism, indecency and impropriety. It should be noted that most of the investigated offences were not the result of madness, but developed within an escalation of words and acts. From this perspective, senseless violence is a civilization problem rather than a psychiatric one.

Beke, De Haan et al. (2001, p. 16) note that "the very term senseless violence is subject to inflation . . . the debate is in danger of getting bogged down in moral indignation, without properly addressing the question: To what extent are these vicious acts an unintentional result of the kind of high risk behaviour that is essentially widely accepted or tolerated?" This is a rhetorical question that the researchers leave unanswered.[5] Yet it is precisely this moral indignation that is relevant in the framework of this book. It leads people to go out on the streets and demonstrate against shocking acts of violence. Against this background, I would like to take a closer look at the white marches in Belgium and the silent marches in the Netherlands.

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[3] In 1960, 14,5000 violent offences were registered by the police, but the figures are now six times as high. In addition to a real increase, there is also what is referred to as a registration effect, since the police are now more apt to register more kinds of offences as being violent. This was particularly the case in the 1990s.

[4] It should be noted in this connection that people who feel unsafe are usually not the people who run the greatest risk. On this paradox of victim anxiety, see Huls, Schreuders et al. 2001: p. 197.

[5] The qualitative analysis of the disproportionately violent offences demonstrates that the answer should be affirmative to the extent that in many cases, there is barely any point to drawing a distinction between offenders and victims.

## White balloons in Belgium

The peak of the White Movement in Belgium came in autumn 1996. On 15 August that year two little girls were released who had been missing for weeks. It was just after two other little girls had been abused and murdered, and Dutroux was arrested as the most likely suspect. The discovery of the atrocious crimes cased an enormous stir, especially since it was increasingly clear how badly the police and the courts had failed. The case escalated when Examining Magistrate Connerotte, who had such a dynamic approach to the whole case, was relieved of his function. It seems that his having a dish of spaghetti with a few of the next of kin was enough to make the Belgian Supreme Court rule that he was prejudiced and biased (known as the Spaghetti Ruling).[6] This ruling, pronounced on 14 October 1996, served as a catalyst for a movement that had just begun. Four days later, 300,000 people (according to a police estimate) took part in the White March.

It was followed by numerous smaller White Marches. After the one in Brussels, there were another estimated hundred marches with a total of 100,000 participants. Stefaan Walgrave et al. interviewed 864 of them during the marches and spoke to 164 members of the White Committees. The researchers also conducted a systematic analysis of the newspaper items on the White Movement. The Belgian *Sociologische Gids* (1998, no. 5) devoted a special issue to the research projects and called it *Wit van het volk* (The People's White). In his Introduction to the issue, Hellemans (1998) notes that it is tempting but unrealistic to write off the White Movement as an irrational overreaction. He feels the movement ("a peak when it comes to mobilizing the people") should be viewed as an expression of a "crisis in the Belgian nation" (Hellemans: pp. 283 ff.).

The murder of children was an effective catalyst, but the movement deviated on some very decisive points from other social movements. According to Walgrave and Rihoux (1998), this was the case on three points. In general, social movements come into being as a result of channelling, organizing and capitalizing on the discontent of a relatively homogeneous group by a relatively strong social party. This vanguard party is in charge of the organization and the political interpretation of the discontent. In a sociological sense, however, the White Movement broke all the rules and challenged all the theories on social movements up to now.

Firstly, there was no evidence of a homogeneous movement of any kind. The age range of the participants was virtually the same as in the Belgian population as a whole; 61% of them were women. Their educational level also coincided with that of the general population, though the least educated with no schooling at all or only primary school were under-represented. Unlike the case in other movements, the leaders or organizers were not particularly well-educated. The participants came from all walks of life, and only differed significantly from the total Belgian population in one respect: 81% of them had children, as compared with only 65%

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[6] The Procurator General of the Court of Appeal pronounced this judgment "with heartfelt regret" (Hooghe 1998: p. 295).

of the Belgian population. Other than this shared parenthood, the people of the silent movement did not have any particular features in common.

Secondly, there were no clear issues the movement was supporting, no strategic demands were made, and no interests were promoted. When asked why they were taking part in the march, 70% of the respondents said they were against "the way things are going nowadays" and hoped for "some improvement". When asked what the main reason was, 37% mentioned "solidarity with the parents," 29% said they were "against the sexual abuse of children," 20% were in favour of "reforming the justice system" and 17% were "against the political system". The researchers were surprised that such a varied and vague collection of reasons had generated such a mass mobilization. They observed a frequent mixture of compassion and protest among the respondents.

Thirdly, there was no existing organization and no functioning networks. The White March in Brussels just happened without anyone planning it or giving it much thought in advance. There were no instrumental goals backed by any strong organization. There just seemed to be what Walgrave and Rihoux join McAdam (1988) in calling a *context of micro-mobilization*. People came with their friends and relatives and neighbours. It is true that the media did play a significant role in the mobilization. Walgrave and Manssens (1998) note that the media not only magnified the events, they actually contributed to the mobilization or organization.

By differing in these three ways from other social movements—no homogeneity, no demands, no organization—in the opinion of Walgrave and Rihoux (1998, p. 310), the White Movement goes against the mobilization theory commonly accepted by sociologists. They note the relevance of the somewhat older theory formulated by Gusfield in 1963 about moral crusades, which is perhaps better able to explain the events. Gusfield emphasizes the importance of moral, cultural and symbolic factors in protest movements. The Prohibition Movement in the United States is one example he uses. He refers to *expressive politics*, and presumes some link between the selected symbols (in this case certain evil occurrences) and the underlying complex of values, which is perceived as threatening.

Taking this approach one step further, Hooghe (1998) describes the White Movement as "a moral crusade against the violation of norms and values perceived as fundamental". In his view, the reasons why the emotional response to the events was so strong are because they involved children, who have a high emotional status in our culture, because of the dramatically heightened excitement (first the children were missing, then they were discovered, then Dutroux was arrested, then the Spaghetti Ruling), and because people identified so easily with the victims. The children and their parents were now known all across the country.

As Hooghe sees it, the fact that all this generated an actual movement had to do with people viewing the authorities as bearing part of the responsibility. Gross negligence, the failure to solve the case in time and the removal of Examining Magistrate Connerotte from office all undermined the already low trust in the government and court authorities. This weak confidence in the Belgian authorities was confirmed in the *Euro Barometer* and *European Values Studies*, which

qualify Belgium as a *low trust society* along with the countries of southern Europe. According to the data of Walgrave and Rihoux, this faith was even lower among the participants at the marches than is evident from these general population surveys. Hooghe concludes in this connection that "the lack of commitment and involvement on the part of the official agencies became the main reason behind the mobilization" (1998: pp. 296–297).

Hooghe feels that the movement distinguishes itself in this way from other moral crusades, for example against pornography or abortion. They mainly turn against other groups in society, whereas the White Movement ultimately came to have a political stake. In other words, its position as the exception among social movements was only temporary. Despite this politicization of the Belgian movement, in the end it did not lead to a transformation into a political movement. It is true that one of the girls' parents, Paul Marchal, did become the leader of the newly founded Party for New Politics, but the researchers note that this led to a great deal of divisiveness within and among the action committees and even presumably dealt the death blow to the movement itself.

## Silent marches in the Netherlands

The Dutch study I am basing my account on consists of a number of parts. On the basis of newspaper articles, an inventory was conducted of the silent marches held in the Netherlands because of specific acts of violence. Silent marches are defined as "processions of a demonstrative nature generated by an act of violence". The researchers also investigated groups of civilians (foundations, committees and so forth) against violence and examined their written material. These groups of civilians include "groups that present themselves in an organized form around the theme of violence". I use the findings of this study to give an impression of the *silent movement* in the Netherlands.

Although the violent death of Joes Kloppenburg in Amsterdam in August 1996 did not lead to a silent march, it still seems warranted to cite it as what started the Dutch movement.[7] From that moment on, there was vast public moral indignation about senseless violence, and a total of nineteen silent marches have since been held. It should be noted that there were two earlier incidents that led to commemorative demonstrations. The killing on 20 August 1983 of Kerwin Duinmeyer, a youngster whose parents came from the Netherlands Antilles, led to widespread indignation because it was an instance of outright racism.[8] To a lesser degree, the killing of Mohammed El Hamid in May 1994 also led to a protest march against racism.

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[7] The fact that a march to commemorate this incident was held a year later might well be related to the example given by the White March in Brussels in October 1996.

[8] There is monument in Vondel Park in Amsterdam to commemorate his death, and a memorial ceremony is held there every year.

There were a total of twenty-two marches before July 2000, and the analysis is based on twenty of them.[9] Seven of these twenty marches had a nation-wide reach. Everyone in the Netherlands is familiar with the names of the victims: Kerwin Duinmeyer, Joes Kloppenburg, Meindert Tjoelker, Marianne Roza and Froukje Schuitmaker, Marianne Vaatstra and Daniel van Cotthem (the National Silent March in The Hague was of a general nature).[10] These marches generated enormous publicity and contributed towards what can rightly be referred to as a national movement.[11]

It is clear from the newspaper coverage that in most cases (thirteen out of twenty), relatives, friends, or others who were directly involved such as the staff at the bar where a killing took place played leading roles in organizing the marches. In six cases, no information was found about who organized the marches. There always seem to be consultations with the next of kin or active involvement on their part. There are also cases where a silent march or a demonstrative funeral was called off on the request of the next of kin. It is striking that in fourteen of the twenty cases, officials of some kind, especially mayors and aldermen, either attended the marches or played a role in organizing them. It was only at a more or less spontaneous event and at the march for Boris the dog that no officials were present. In four cases, no information is available on this point.

The newspaper estimates sometimes vary as regards the number of participants. Most of the marches were small and only involved a few hundred to a little more than a thousand participants. The smallest one was for Boris the dog with 200 participants, and the largest silent march was held in Gorinchem and was attended by 25 to 30,000 people. Based on the average figures, there were an estimated total of 75 to 100,000 participants at the silent marches, though it is impossible to know how many people attended more than one. In many cases, the participants were a wide circle of people involved with the victims or the next of kin. In seven cases, there were thousands of participants, and with groups of this size, it is only logical to assume that reasons other than direct involvement play a role.

The information about the aims, motivation and features of the people who organized and took part in the marches is too fragmented to warrant any systematic statements. Sometimes there is not enough data, and sometimes the accounts focus on rather random details. It still might be a good idea though to present an overview of the underlying reasons cited in the newspaper articles, since they do at least give an impression of the significance attributed to the silent marches via the media. The observed reasons can be divided into six categories. The first three pertain to emotional expression, and the other three are appeals in the moral and political sense of the word.

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[9] Insufficient information was available on one of the marches, and the two marches that were held for Daniel van Cotthem, are combined into one in the analysis.

[10] A comparable march was held in Utrecht in October 2000 with an estimated 10,000 participants to protest the violent death of Yasmina Habchi, but it was not in the period covered by the study.

[11] A relatively constant number of marches were thus held over a period of four years (four, five, six and four times a year respectively).

*Compassion.* As regards nine of the twenty documented silent marches, people use emotional arguments such as a desire to show their empathy, express their sadness, deal with their sense of mourning and so forth.

*Rage and powerlessness.* To a lesser degree, references are made to feelings of anger, rage, aversion and powerlessness (*Why him?*) and fear (*It can also happen here, it can happen to me and to my children*). The organizers called one of the marches Procession of Sadness and Despair and did not want to carry any banners.

*Revenge.* Only in three cases are comments reported to this effect. (*We hope whoever did it will turn himself in to the police* or *They were the victims of people who don't deserve to live*). Perhaps the most striking speech was the one made by a mayor who addressed the unknown offender and said "How dare you kill an innocent girl like that in such a vicious way? You ought to be ashamed to have any normal person set eyes on you!"

*Reflection.* This is a recurrent theme, for example in terms of raising consciousness, appealing to norms and values, respect and tolerance and acting to reduce egotism and so forth. *Is there such a thing as sensible violence?* was one of the mottos on T-shirts distributed in Gorinchem.

*Anti-racism.* Reasons and aims pertaining to racism played a role at five of the twenty documented marches. Four of the marches, one already in 1983, one in 1994 and two in 1996, were explicitly against racism or discrimination. At one march, where one of the banners read *Amin, we'll get the black boys*, discrimination by Moroccans against Antilleans seemed to play a role. At three of these five silent marches, combating escalation was cited as a reason. The newspapers virtually failed to make any mention of discriminating or racist comments in the cases involving ethnic minority offenders.

*Political reasons.* Political demands or expectations were only cited to an extremely limited extent. In the case of Boris the dog, references were made to a protest against the violation of animal rights. And in the case of the death of Meindert Tjoelker, Inspector Bangma expressed his support of the police. Only at the National Silent March were political demands addressed to the Minister of Justice: a general pardon for people who hand in their guns, no influence to be exerted by procedural errors on criminal prosecution, collective prosecution in the event of group violence, more camera monitoring and preventive searching.

So in general, the statements noted in newspaper articles pertain to compassion with the next of kin and collective moral reflection. This is confirmed in the study on committees against violence. A total of sixteen active groups were noted; the inventory could only be based on thirteen groups, eleven of which were foundations.[12] In seven of the thirteen groups, there was some direct involvement in

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[12] The information pertains to the Foundation for Active Non-Violence, Class Foundation, Gorcum Against Violence Foundation, Groningen Safe Foundation, Stop it Now Foundation, Art Against Violence Action Committee, Report Violence Foundation, National Campaign Against Violence Foundation, Association of Parents of a Murdered Child, Foundation Against Senseless Violence, Tolerance Unlimited Foundation, Vlaardingen Against Senseless Violence Foundation, and Stop the Bullying Foundation.

violence. They were not all cases of manslaughter, there were some incidents of bullying, molestation and maltreatment. In six of them, the motive was a more general one. In almost half the groups, there was no direct involvement in violence. There were any number of reasons why they took the steps they did.

In two of the in-depth interviews, motives emerge such as "I have always had a strong sense of justice" or "it just happens to you". The people involved are entrepreneurs in the literal sense of the word, who see possibilities for "projects" in the combination of "a good cause" and "a good product". ("I launch a project, I keep going with it for a couple of years, and then I start doing something else.") The number of participants and their involvement vary to such a large extent that it is impossible to make any general statements. It can be generally stated though that an estimated total of a couple of hundred people are actively involved in various capacities in civil action against violence.

It holds true of all the groups that they make an active effort to prevent and combat violence. Of course they differ in their aims and the methods they use. Most of the groups focus on changing the mentality (consciousness raising, making people aware of their responsibilities, propagating non-violence and tolerance or promoting respect)—at any rate eight of them do so explicitly. More comprehensive aims have to do with arming people against violence, giving youngsters and their parents new prospects, and improving the communication between the authorities and the younger generation. More specific aims include improving the approach taken by the police and the public prosecutor (for example by opening the files of unsolved murders) and improving the care facilities for victims and next of kin.

A number of foundations have marked views on the problem of violence which they have formulated in writing. It is striking that the social definition of the problem of violence prevails in this connection. Unlike the reactions to offenders who have sexually abused children, none of the documents are written in a tone that takes a stand against offenders as such. References are made to the individualization of our culture, the bureaucratization of the government, the free and easy mentality of the sixties, materialism, the excessively free upbringing of children nowadays, the commercialization of the world of entertainment and so forth.

None of the groups  explicitly focus on promoting greater repression by the police and the courts. In a number of cases, the world of politics, the police and the justice system are expected and indeed found to be the most important discussion partners. There would seem to be more evidence of a wish to improve their activities than of explicit criticism. Efforts are often made to do something to improve the police and court efforts on behalf of victims and next of kin. One foundation refers to the "scandalous way the next of kin are treated". In so far as there is a political programme, it focuses on improving the position of victims and next of kin, and particularly on changing the mentality of their fellow citizens.[13]

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[13] The activities they engage in range from the sale of ladybird buttons to information campaigns at schools, from talks with police, court and government authorities to idea contests, from the introduction of violence free zones to discussion groups for next of kin, and from organizing music and other festivals to setting up a national civil platform against violence.

## Temporary sense of community

In view of the distribution over a number of years and the regular high numbers of participants, it is possible to speak of a new social phenomenon that is more than incidental, the silent march against violence. One should not however exaggerate the size of this phenomenon, certainly not as compared with the Belgian white movement. It did come into being far more gradually, and it does seem to be more persistent than the white movement. The absence of political demands and the frequent presence of figures of authority indicate that there is no question here of any political motivation or polarization. Here again, there is a clear difference from the Belgian movement. There are virtually no negative comments of the "us against them" type.

This impression has been confirmed in the study on the material produced by the committees and the interviews held with representatives of the foundations. The differences between the committees have mainly been observed in the extent of professionalism the various groups strive for. In most of the groups, the predominant feelings are involvement and concern about the social climate in which serious violent crimes take place. At several of the foundations there is clear evidence of an entrepreneuring spirit and commercial activities are also launched.

In keeping with the Belgian experiences, a great deal of emotional and moral concern about crimes of violence has been observed on the part of the public in the Netherlands as well. In this sense, it would indeed seem warranted to conclude that the civil actions are an expression of the moral discontent in a risk society. The conclusions can however go one step further as regards this point. The underlying reasons for the civil actions are anything but vague. They have to do with concrete cases of homicide and manslaughter. This would seem to confirm the hypothesis that the victim plays a *solidarizing* role in the moral design of post-modern culture (Boutellier 1993, see also Chapter 5).

Contrary perhaps to what might be expected, my research on the Dutch movement has barely revealed any evidence of punitive sentiments. The movement does not advocate greater repression on the part of the authorities. It does advocate that more attention be devoted to the position of the victim, which is very much in line with the ideas of a movement that has been visible since the early 1980s. It is striking that the marches and committees focus on violence, especially senseless violence and, unlike the ones in Belgium, not on crimes of violence of a pedosexual nature. When crimes of this type occur, the decision is often made not to hold a silent march, and it is usually made on the request of the parents. People seem to realize it is a psychiatric disorder rather than a moral issue that is involved here. There is a difference in this sense from the incidents of people taking justice into their own hands in connection with crimes of violence involving the sexual abuse of children that occur—sporadically for the time being—in the Netherlands.

The emergence of the civil movement in this new gestalt is not an isolated event. Other social movements have similarly been inspired by emotional involvement with victims. Movements like Greenpeace and animal rights groups

have generalized victimhood to include other species.[14] Other civil movements like the women's or the gay movement have also achieved a form of emancipation with the recognition of victimhood as a driving force. In *Achieving Our Country: Leftist Thought in Twentieth-Century America* (1998), Richard Rorty notes that campaign-like political actions have taken the place of the large political movements.

It is probably rightly that Van Stokkom (1997) refers in this sense to an emotional democracy where emotion constitutes an important motivation in the present constitutional state and is perceived as legitimate. This is why the Dutch civil movement related to violence is not isolated, though it is unique in a number of ways. Belgian researchers note that emotional indignation and political discontent converge in the white movement. This is clear for example from the reasons cited by the participants in the white marches. There is barely any evidence in the Dutch movement of this kind of convergence. It is true that efforts have been made to formulate demands to be presented to the government, the police or the courts, but they do not constitute a political programme. In the end, this is not the case in Belgium either. There is however evidence of powerlessness there, whereas in the Netherlands it is more a case of reticence. The parties present themselves as discussion partners, but without making any demands.

More than is the case in Belgium, the Dutch civil actions can be viewed as a moral movement with normative rather than political aims. They talk about reflection, consciousness raising, safety and respect. Authorities, politicians and Dutch celebrities all play a characteristic role in the movement. Officials and the public at large seem to share a collective rejection of violence. In its local activities, the movement concentrates on providing information at schools, organizing festivals, stimulating artistic expression, selling buttons, holding contests and so forth.[15]

The commotion about child pornography and the sexual abuse of children is not the same as what is at the core of the silent marches. The former centres around the call for control over the offender, the latter around the silence of reflection. In both cases, there is evident victimhood, but the orientation is different.[16] And in both cases, the safety of society as a whole becomes a theme. Two characteristic aspects of the safety utopia are expressed this way, the central role of the victim and the call for safe freedom. For some of the participants, the safety utopia will be achieved—if only temporarily—in a silent march.

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[14] In the interviews, some of the leaders of this movement regularly compare it to an organization like Greenpeace.

[15] Another typically Dutch feature that has emerged in this setting is the business sense that some of the foundations exhibit.

[16] The question remains as to the extent to which the next of kin can ultimately be helped by these marches. Esther Polak (2000) notes that the marches can result in their being marked for life by the tragic events.

## The aesthetic/ethical community

For a final evaluation of this relatively new phenomenon, I once again consult one of Bauman's essays. The movement that resulted from the Dutroux affair in Belgium and the crimes of violence in the Netherlands can best be described by Bauman's term *peg community* (2001, p. 16). This term refers to a community of individuals that gathers around a shared position, a peg. People come together under a name that requires no further explanation. For a proper understanding of the peg community, I would like to say a few things about the community as such. *The community* is fashionable at the moment as a response to individualism and moral fragmentation. I have referred earlier in this book to the philosophical school of communitarians (MacIntyre, Etzioni, Sandel and others) who would like to revive the idea of a community.

The sociologist Tönnies aptly explained the distinction between community and society. It is crucial to the existence of a community that its members accept it without a moment's hesitation. "The understanding is there", and there is no need to fight or argue about it. The community is rooted in a kind of sameness that in principle, assumes a large extent of homogeneity. In this context, Bauman (2001, p. 1) notes that at the moment, the community is just another word for *paradise lost*. As soon as the community is praised and preached about, it has essentially disappeared. In a society, where the organization and social relations are far more complicated, community is more apt to be something that has to be created.

Against the background of radicalized individualization, Bauman observes the rise of these peg communities. The identities we have worked so hard to attain in this fragmented culture are now seeking self-confirmation. People look for self-same communities where—if only for the moment—nothing needs to be explained. The identity politics so characteristic of contemporary times creates communal identities, identities supported by (assumed) communality. However, a community formed on this basis is fragile and vulnerable. It is a stronghold that is constantly under siege (Bauman 2001, p. 15), but it does provide a certain tranquility.

It is striking in this context that in a globalizing world, more and more communal borders are drawn. People are looking for smaller frameworks with a communality in the same dialect, a shared tradition or a certain belief. The expression "our kind of people" can be applied to any number of subcultural communities. Bauman refers in this connection to the aesthetic community, as described by Kant, which is based upon inter-subjective judgments and conceptions. Aesthetic communities of this kind are extremely popular with the media and entertainment industry. They are often created around idols like Princess Diana, and are frequently only temporary and above all noncommittal. They combine the enjoyment of belonging to something with the freedom of not being committed to anything (Bauman 2001, p. 69).

This is a different kind of community than the moral or ethical community that is described by Durkheim and Tönnies and is the ideal of many communitarians. This

revolves around long-term relationships, not transitory ones, and around obligations, not noncommittal attitudes, a grounding of the self, not a mere confirmation of the self. Within the contemporary fragmented context, the desire for this kind of community can assume the gestalt of the aesthetic community. In my opinion, this is how the silent march movement should be comprehended. In its silence, it is pursuing moral communality, but it does so in an aesthetic fashion. Unlike the developments related to the sex offender, here communality is not found in the rejection of an offender—the sex offender—but in the empathy for the victim and the next of kin.

# CHAPTER 5

# THE CONTROVERSIAL VICTIM
# AND THE OFFENDER

*Victimhood plays an important role in contemporary public morality. But there are various sides to the victim. There are also consequences for the offender. He is held more individually responsible for his behaviour. The victim and the offender are the central figures in the safety utopia.*

In the safety utopia—the unattainable desire to achieve both vitality and safety—the victim unmistakably plays a major role. The victim, e.g. the victim of a crime, creates an opportunity to generate moral consensus in a morally divided world. I describe this in Chapter 4 with respect to silent marches commemorating acts of senseless violence. The marches create a temporary sense of community based on a clear case of victimhood. The uproar caused by sex crimes is indicative of the same phenomenon. An innocent child is the perfect victim to project the discontent on to that is generated by the pornographic freedom of contemporary society. These are examples of the thesis that in a morally fragmented culture, victimhood occupies a central position in public morality.

I have described this victimalization thesis earlier in *Crime and Morality* (2000). It has turned out to be a controversial idea that is nonetheless confirmed time after time. The criticism of the victimalization thesis does not concentrate as much on the empirical diagnosis as it does on the appreciation of a central position for the victim in our culture. References are made in a negative sense to a *culture of complaint* or *victimism*. This is a kind of cultural criticism that is dominated by a sense of revealing the true cultural conditions of our times.

Taking this criticism into consideration, in this chapter I examine the role of the victim in the safety utopia. It is to this end that I discuss the victimalization thesis I developed in the past and the criticism of it. I make an effort to distinguish various types of victimhood so as to be able to describe their significance to the offenders and to bystanders, the public. The victim, the offender and the public are inextricably linked in the safety utopia.

## Victimalization[1]

In Chapter 1, I refer to Bauman and note that in postmodern conditions, morality can be little more and certainly no less than communication about intuitions related to what a good life is and what we reject. Morality has been subjectified and is now the subject of individual or subcultural life projects, and no longer the subject of grand life discourses and pretensions as regards the one and only truth. We *feel* our moral views, but they are no longer legitimated by a higher agency of whatever nature. Up until the 1960s, the moral points of departure for a good life, and thus of an evil life as well, were still part of a limited number of coherent life views with the accompanying strong social institutions. The fall of the Berlin Wall also marked the definitive end of this ideological era, and moral *emotivism* became common property.[2]

Moral points of departure are now an individual matter; the formulation of moral judgments has been subjectified. Especially in conservative circles, people are taken aback by this trend. Yet there has long been evidence of it. In the eighteenth century, the rational individual was given pride of place in Western culture, resulting in the politically liberal democratic constitutional state in the nineteenth century. "The individual conscience was decisive in the questions of good and evil" (Berger 1992, p. 16). The second half of the twentieth century produced little more, at least in this sense, I feel, than a democratization of the ideas of the Enlightenment.

Instead of recoiling from a world with no common moral source, the absence of joint higher ideals is viewed as a liberation of sorts. Bauman refers to the moral primal scene of the I and the Other (Levinas). The face of the Other is a presocial source of morality. The Other, I note in response to Bauman, can mean either subordination or overpowering. This ambiguous appeal forces us to find communality in our ideas. In a liberal society, this communality is not found in ideas about what is good, but in our shared notion of what is evil.

Rorty (1989) defends the notion that in postmodern conditions, public and private morality are two different issues.[3] Public morality serves the social order, and private morality serves individual self-fulfillment (the politics of the self). There is a theoretical interface in John Stuart Mill's damage principle: self-fulfillment is restricted by damage done to others. The state has the right to intervene if and when damage is wrongly done to others. This nineteenth-century point became sociological reality in the twentieth century. We might speak here of amended moral relativism.

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[1] This section gives a short summary of *Crime and Morality. The Significance of Criminal Justice in Post-modern Culture* (Boutellier 2000). For a more comprehensive argumentation, I refer the reader to this book.

[2] This emotivism dates back to various works including G. E. Moore's *Principa Ethica* (1903).

[3] Bauman calls Rorty "a great philosopher, perhaps the greatest we have", but reproaches him for refusing to see his own ideas as being historically determined (Bauman 1997: pp. 83 ff.). Bauman sees Rorty as the philosopher of *the postmodern condition*, though Rorty himself does not use this term.

According to Rorty, *Are you suffering?* is the decisive public question in an otherwise privatized morality. It is not a positive, forced community ideal but a rejection of cruelty, humiliation and suffering that makes us communicate about our lifestyles. Acknowledgment of differences among people, tolerance towards other lifestyles and respect for others subsequently constitute the virtues of a pluralistic culture. A comparable position is defended by Margalit, who notes in *The Decent Society* (1996) that a decent society where humiliation is combated is a more realistic point of departure for public morality that a society dominated by a sense of justice.

In this morality, the victim is the prototypical figure. Liberals without any illusions no longer identify with God, the nation, the working class or the community. And if they do, they can barely rely on anyone else being the slightest bit interested. But the offended *other* sets limits on this solitary moral life stance. People reject victimhood because anyone can become a victim, and the offender is punished to keep the offender within ourselves under control; we can be offenders ourselves, perhaps we even want to, either just now and then or in our imagination. The awareness of one another's vulnerability supplies the emotional building blocks for an empathetic morality.[4]

The victim has become the caretaker of public morality. This liberal motif was already there in what was until recently a world organized along ideological lines. For a long time, people have had the illusion that morality could be extracted from rationality. But even the notion that as a reasonable being, man is in himself the best there is, so that every human being is deserving of solidarity has ultimately proved unfounded as *truth*. Instead of pursuing this basis, Rorty (1989) feels we would be better off devoting our energy to putting it into effect. The rational subject of the Enlightenment was so successful that in the end, it could have its doubts about everything . . . including itself. "From the very start, one might say, modernity was expecting its own postmodern abolition" (Bauman 1997, p. 77).

We can thank our lucky stars, according to Rorty (1993), for our human rights culture resulting from the ideals of the Enlightenment, but we can not give it a firm basis. All we can do is point out that in our culture, there are more terms for rejecting suffering and humiliation than in other cultures or periods.[5] We can fight for ideals, but are simultaneously aware of how randomly they occur in history. Rorty's solidarity is a limited, individualized solidarity which, under the optimal conditions of the liberal welfare state, spreads like wildfire from the individual relationship to the entire community.[6] In a liberal culture, the rejection of cruelty is ultimately the most convincing justification for acting.

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[4] The moral theory formulated by Hoffman (2000) is relevant in this connection. He measures the moral level of individuals by the degree to which they can put themselves in another person's situation. He views empathy as "an affective response more appropriate to another's situation than one's own" (p. 4).

[5] This is probably why in response to 11 September 2001, Rorty expressed his objections to a dialogue with Islam in an interview in the *Frankfurter Algemeine*.

[6] In more recent publications, Rorty (1998) has emphatically addressed its political connotations.

## Victimism

Various authors describe and criticize the finding that public morality has come to be dominated by the victim. I would like to cite Alain Slama (1993), Australian art historian Robert Hughes (1993), American social psychologist Charles Sykes (1992), British sociologist Frank Furedi (1997) and French philosopher Alain Finkelkraut (1997). Their criticism implicitly confirms the victimalization thesis. In other words, they do not object to the diagnosis as such. What they are mainly against are its consequences for the culture and the possibility of its being wrongly used by politicians. I would like to concisely summarize some of these views.

In *A Nation of Victims: The Decay of the American Character*, Sykes describes victimism as an excrescence of a flaccid therapeutized society, where each social category demands its own share and depicting oneself as a victim has become an attractive pastime (Sykes 1992, p. XIII). Women, blacks, the handicapped, homosexuals and individualists now define themselves first and foremost in terms of victimhood. In impassioned formulations, Sykes describes an American culture dominated by *victimspeak* and youngsters "who refuse to grow up" (p. 24). On the cover of the book, it says "The lamentation of the victim—'It is not my fault'—has become the loudest and most influential voice in America."

The victimalization of the culture[7] was preceded by the psychologization of a culture increasingly dominated by the pursuit of happiness. Sykes views Adorno's study (1950) on the authoritarian personality as a watershed for the new psychopolitics. In his study, this neo-Marxist who fled from the Nazis demonstrates the connection between fascist, ethnocentric and anti-Semitic character traits. They are all viewed as originating in the projection of aggressive impulses on to minorities. The study legitimizes a psychologizing cultural politics that serves as rich breeding grounds for the *high noon of victimism*.

The next step, according to Sykes, is taken by William Ryan in *Blaming the Victims* (1971), which denies any responsibility on the part of victims for their fate. In his view, criminals are also victims of circumstance, a notion that was quite popular in criminology circles. Demanding certain rights for deviant individuals went hand in hand with calling them *sick* and subsequently led to the advent of the *politically correct victim*. This resulted in turn in the *politics of sensitivity*, enabling every individual to claim his own *right to victimhood*. Sykes is particularly critical of the positive discrimination of women and minorities.

He counters by stressing the importance of a revaluation of *the building of character*. One of his sources of inspiration is an essay by J. Q. Wilson (1985). In Wilson's view it is not the authorities but the culture itself that should be addressed, and he refers to historical periods when this was the case. In the Depression, it was not ethnicity, sex or class that played a central role, but the behaviour of individual citizens. People ought to behave themselves, and this is something

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[7] Sykes uses the term *victimization*, which is usually used to mean *becoming a victim*, and this is why I prefer the term *victimalization*.

that can only be put into effect bDy building character and stressing the issue of individual responsibility. "Acknowledging our own responsibility and the need to stop blaming others is the first step towards dismantling the victim culture" (Sykes 1992, p. 253).

A bit less systematically but with just as much pent-up rage as Sykes, Hughes presents a comparable analysis in *The Culture of Complaint* (1993). He similarly attacks the culture of overstated rights, psychologization, and above all political correctness. He alludes to "the ever-prevailing claim to victimhood" that "crown's America's long fostered couture of therapy . . . being vulnerable makes you invincible. Complaining makes you powerful—even if it is no more than the power of emotional bribery" (Hughes 1994, p. 16). Hughes similarly reveals the claim to victimhood as a way to evade responsibility and avoid having to become a virtuous citizen. We should all become citizens of our society, not clients of a welfare state that has turned into a Big Nanny.

There is a striking similarity between how Sykes and Hughes analyse American society, which they both feel has become a pampered culture of self-styled weaklings. Their vivid discourses contrast sharply with the more benevolent description I gave at the time of the victimalized morality. In *Crime and Morality* (2000), I saw this trend as a response to moral relativism (the victim sets limits) and conservative criticism about what is felt to be an immoral culture (victimalization is an active moral motivation). In this sense, the criticism formulated by Sykes and Hughes seems to be more a question of taste than of a fundamental refutation of the victimalization thesis.

The criticism by French philosopher Alain Finkelkraut in *l'Humanité perdu* (1997) is sharper. He laments the turn that was taken, especially as a result of the 1960s. Compassion with the suffering of one's fellow man, no matter who he is or what his motives are, was generalized to the culture as such. "The shoe pinches if we can no longer draw a distinction between unhappiness and aggression and . . . only see the same interchangeable victims" (1997, p. 119). In his opinion, victimhood has become a political category that ultimately leads to hiding behind a false communality.

In Finkelkraut's opinion, the *doctor without borders* is the perfect illustration of the present-day humanitarian generation. "This [generation] used to be deceived by the fable that humanity was on its way towards a glorious future and now, to avoid any unpleasant surprise, it has to accept the indisputable truth that humanity is suffering. Now that it has awaken from the intoxication of Grand History, all it is interested in is the fate of the species. Its solidarity emerges as a vast mothering · · · an extremely indolent morality · · · after all, victims do not lie" (Finkelkraut, Dutch translation, 1998, p. 120). And in this indolent morality, the individual, even as a victim, is doomed.

Due to this focus on the suffering of one's fellow man, no matter who he is, people have been reduced to a general Mankind, a totalitarian temptation previously accounted for by the great ideologies or by History. The multiformity of people and cultures can not stand up to the unity of suffering and suffering thus becomes

pointless suffering; there is not a politician in the world who would dare speak out in favour of anyone suffering at the expense of anyone else. Instead they use good will as a "front for the most cold-hearted calculations to serve their own interests" (1997, p. 124). Finkelkraut is now referring to the war in former Yugoslavia, where he reproaches politicians for their lack of political morality. In other words, a victimalized morality puts an end to politics, it legitimizes a politics of hypocrisy.[8]

Without any pretence of doing justice to the authors cited above, their criticism can help us define the significance of the victim in the safety utopia. The authors mainly target the unspecified aspect of victimhood. In postmodern conditions, everyone can claim the status of victim. This leads to therapeutization (Sykes), sentimental political correctness (Hughes) and a hypocritical political stance (Finkelkraut). Although these are quite different arguments, the lines of criticism all lead to the question of whether it is permissible for victimhood to be a moral or political criterion. Victimhood is apparently so comprehensive that it becomes meaningless and can easily be abused.

There is indisputable empirical evidence to back the criticism of victimism. The media devote ample attention to every conceivable form of victimhood. And the cry for recognition as a victim is an appeal to everyone's emotions that is heard every day. Its strength and cynicism are both clear from this general statement. The universal human nature of victimhood enables us to empathize with the victim and address others and ourselves about the cruelty and humiliation that are also part of human nature. But it can also easily be abused. In this sense, the question of who the real victim is can be an intimate question that only acquires political significance once it is the subject of efforts to form a consensus.

Not every complaint can be judged as culturally or politically valid. The fact that a moral consensus is reached in terms of victimhood does not necessarily mean its concrete forms can not depend on historical and cultural conditions. Victimalization does not mean an end to politics, it simply means a continuation in different terms. There is no denying that this process also has quite the opposite side to it, but in an empirical sense one still can not refuse to see it. So it is important to conduct a further analysis of the concept of victimhood. What kind of victimhood are we essentially referring to? What consequences does this have for the safety utopia, where people dream of vitality and safety coinciding?

**The emancipated victim**

The term victim requires further specification if we are to position it properly in postmodern conditions. It is a normative watershed, but as a general category it evokes an aversion with a psychological as well as a political element. In a

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[8] This political criticism of the victimalization thesis should be viewed in a different light after 11 September 2001. Victims of terror are now used to justify the war on terror.

psychological sense, the victim undermines the belief in our own vitality. Sykes and Hughes in particular call to mind the image of the pathetic weakling who is incapable of looking out for himself and derives his identity from a permanent claim to other people's compassion and sense of guilt. This kind of victimhood is the prototypical personality in what Hughes calls the culture of complaint.

I prefer to call this personality the *calculating victim*. This victim does not have to fight to get his way, he gets it on the basis of his own powerlessness. The suffering of the world is reduced to his own individual suffering. He is an extremely narcissistic victim who puts his suffering on display in order to reach his goals. This victim strives for psychological or financial gains and does not hesitate to use other people's sentiments in the process. Especially in the American civil justice system, this victim has come to have an important voice. A culture that unites around this type of victim runs the risk of undermining itself.

At the other extreme, there is the prototype of the *vindictive victim*. He is just as narcissistic as the calculating victim, but does not want compassion. On the contrary, this victim takes the law into his own hands, but he knows no bounds. Based on *Medea*, the Greek tragedy by Euripides, Foqué (1994) notes the destructive and self-destructive, the excessive, the insatiable and the everlasting nature of revenge. This form of victimhood does not give rise to aversion because it makes a claim to compassion, but because it tests the limits of reasonableness.

According to Foqué, the excessiveness of revenge evokes a force that, based on a monopoly of violence, makes laws enforceable. In the criminal justice system, the excessiveness of revenge is channelled in accordance with the measurements considered acceptable by the political community. In this connection, he considers it debatable whether criminal justice should pay all that much attention to the victim. Side by side with the emotions of the victim, the issue of revenge would once again be entering the courtroom, which is diametrically opposed to the principles adhered to there.[9]

The calculating and the vindictive victim are two diametrically opposed prototypes of narcissistic victims, who serve as spectres in the criticism of the victimalization thesis. In post-Christian culture, there is also another victim prototype. In *The Sovereign Victim*, Lascaris (1993), a Dominican friar, sheds some light on the role of victimhood in Judaism and Christianity. The core of violence, according to him, lies in the denial of the independent existence of the other (p. 52). An eye for an eye, a tooth for a tooth was the kind of retaliation recommended in the Old Testament. Order should be restored by revenge regulated into retaliation. One act leads to another of the same kind—a notion still found in the principle of proportionality in criminal justice theory.

This form of retaliation is abandoned in the New Testament. There are no conditions to the kind of forgiveness of sinners that is preached by Jesus Christ. He renews the relation with the offender and invites others to do the same in an unconditionally forgiving, non-violent, sovereign fashion. This victims

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[9] See Chapter 7 in this book for a discourse on the role of the victim in the criminal justice system.

disconnects himself from the offender: "in the other, the victim is seen that one is oneself" (Lascaris 1993, p. 263). In other words, an individual's own suffering is perceived in relation to the suffering of others, even of the offender. The sense of forgiveness stems from an awareness that personal suffering has a significance in relation to a much greater suffering. It is not the vindictive but the *forgiving victim* who has played such an important role in shaping Western culture.

Revenge can be surmounted via the other person's understanding. This sense of forgiveness, taken from Humanism, has contributed to the relatively mild punishment climate in a number of Western societies, where offenders are also perceived as victims. The offender's guilt is a shared guilt. But this feeling also has its excrescences, and has contributed to the victims of oppression and exploitation resigning themselves to humiliation and subordination. The message that their suffering serves a good purpose is what enables them to survive. And there is sometimes abundant understanding for offenders who victimize others themselves.

In postmodern conditions, this form of forgiving victimhood also leads to political aversion. By now, the notion of heroic suffering just for the sake of peace and quiet has undergone quite a bit of erosion. There has been a sharp reduction in the willingness to resign oneself to suffering caused by third parties. Passivity is now also perceived as something negative in our culture. In the safety utopia, there is new kind of victim who combines all three feelings; I would like to refer to him as the *emancipated victim*. He is driven by revenge, but realizes at the same time or at any rate sometimes that the offender is someone else. His revenge is not excessive, instead it is sometimes conciliatory and sometimes calculating,

The victim realizes his suffering often can not compare to all the agony he is confronted with every day on television. He wants his own suffering to be acknowledged and realizes that in this sense he is dependent on others. But he also knows he will remain powerless if he does not release himself from his victim status. The awareness that his life project has been pierced by one or more humiliating third parties forces the victim to reformulate his aspirations. Sometimes he will be able to pick up where he left off by granting forgiveness to an offender who is amply aware of his guilt, sometimes he will unite with others to form a political action group, sometimes he will turn to the police to right the wrong. He wants justice to be done to him, but he also knows that in the end, this is only meaningful to a very limited extent.

It is this emancipated victim who I feel shapes the safety utopia I am examining here. Calculation, revenge and forgiveness are all part of his repertoire, but in the eyes of the people around him, he ought to be willing to view himself with a certain extent of irony. He should even be able to dissociate from his victimhood if it pegs him down too much and keeps him from getting back to his life project. Not every claim to suffering is deemed valid, and certainly not forever. We should bear in mind that the prominent status of the victim is linked to the vitalist nature of postmodern conditions. The victim appears exactly when individual freedom is at its highest. And it is precisely this general claim to victimhood that leads to the necessity for differentiation.

In itself, it is not relevant here whether the moral borders around victimhood are drawn early or late, hysterically or compassionately.[10] The important point is that the emancipated victim activates the need for safety in the safety utopia. The victim of sexual violence draws the boundary for example when it comes to the sexualization of the culture. The sexually abused child can even count on unconditional empathy. It is typical of emancipated victims that they play an active role that even extends to their dissociating or having to dissociate themselves from their status as a victim. Victimhood has become the stake in a cultural and political battle, but it is not sacred in itself.

In particular, the victims of crime can count on a great deal of sympathy in today's culture. They are close by, concrete and mediagenic. What is more, the source of their victimhood can be localized with a certain degree of precision. There are actual offenders, even if they are not found. As a result of the prominent role of victims, criminal offenders are also viewed in a different light. There is less and less understanding for whatever victimization of their own might have contributed to their criminality. In a morality now devoid of ideology, it is more difficult to find convincing terms to explain away their criminal offences. In the eyes of the safety utopia, criminal offenders represent vitality but they have taken it much too far. They have no compunction about doing damage to other people or making them suffer in a way that evokes so much empathy. In a moral sense, offenders are also emancipated to the extent that they are now held responsible for their own acts.

## The responsible offender

In February 1993, two-year-old James Bulger was brutally murdered by two ten-year-old boys. The people of Great Britain were shocked that such a thing could happen there, and the reverberations are still felt, for example in the policy on crime that has since been proposed. In response to the events, Prime Minister Major stated that the time had come to condemn acts of this kind rather than understand them.[11] It was a severe reproach to criminologists and others who make every effort to "understand". Major's comment was written off by the intelligentsia as cheap political gimmickry. The Prime Minister seemed to suggest it was time to put an end to the soft approach to violence and other criminal conduct. And that was probably more or less what he meant to say. In a way, today's Labour Cabinet policy is a continuation of this policy: "tough on crime, tough on the causes of crime".

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[10] The reader is referred in this connection to the present-day question of the guilt of nations for the evil acts they have committed in the past, and the possible payments they should make to the next of kin as compensation. See Barkan (2001).

[11] "To condemn more and to understand less", Prime Minister Major in *The Sunday Times*, 21 February 1993.

Novelist Blake Morrison was not interested in what Major was suggesting. He wrote a very personal, probing book examining the meanings behind the improbably dramatic event (Morrison 1997). I use his book as a vehicle for describing the contemporary moral position of the offender. In his book, Blake Morrison presents a kaleidoscopic collage of meanings and explanations. It starts with a story about a medieval children's Crusade, with the older children ultimately leading the younger ones to their demise (as was the case with James Bulger). It is about Morrison's relationship with his father and with his children.

Morrison gives a painfully detailed account of what must have happened on the day of James Bulger's murder. There are descriptions of the boys, the parents, the surroundings and the court case. Morrison tries to understand, and gets entangled in the multifarious meanings of the events. This is the result of his effort to depict the faces of the ten-year-old offenders and their parents. Morrison ends by speaking out in favour of continuing to see the boys as children among other children, as human beings and not the devil's offspring.

The book demonstrates that the relation between understanding and condemning is not as simple as Major—and his critics for that matter—would seem to suggest. Psychologically speaking, the effort to understand is so natural that it is inevitable. We want to know, because we are creatures who give meanings to things. In this sense, Major's wish is illusory. We can abhor the act itself, but we can not turn off our drive to understand. In the era of modernity, this understanding has been transformed into causality thinking, leading in turn to the moral meaning of bad behaviour being relegated to the background. Major's statement discards this idea, which is why it is so significant in our comprehension of the crime complex of the safety utopia.

The drive to understand, in other words to have some understanding for something we ourselves have not done, is the result of the Christian Humanist tradition of compassion, and serves first and foremost a moral function. We try and put ourselves in someone else's place, even if they behave atrociously. Sometimes we conclude that this kind of understanding is barely feasible—a bridge too far. That is why we speak of *senseless* violence. We are not willing or able to make any sense out of it, or to imagine ourselves in the offender's position. Who is willing or able to imagine themselves as Marc Dutroux? We would need to be a lot better informed to even start to understand his crimes, let alone explain them.

Explaining what people do used to be the territory of the social sciences. They claimed a kind of sole right to the option of gaining insight into human motivations. Yet it is precisely this expert judgment that is a matter of debate in the risk culture. The scientist no longer has the authority that was awarded to him in the framework of the belief in progress. This certainly holds true for the criminologist who tends to dissociate himself from the criminal's own responsibility and seek explanations in external or biological causes. By definition, the criminological explanation of violent behaviour is deterministic. Due to the emotional connotations criminal events have come to have, whether or not this is rightly so, nowadays this deterministic explanation is only accepted to a limited extent. Instead,

the explanatory pretence would seem to be a bone of contention in the safety utopia.

No matter how greatly they differ, the explanations make the victim and offender alike people who no longer have a say in the matter. In a sense, the criminological explanation takes the criminal offence away from the offender. His act is now viewed as a symptom of something else. In the context of a vitalist culture, in a certain sense the denial of individual responsibility is counter-intuitive. In essence, the determination of our acts deprives us of a say over our behaviour. But in our liberated culture, people want to have *willed* their own behaviour.

In postmodern conditions, the responsibility for our behaviour is very much in the limelight. In keeping with Bauman's analysis, individual responsibility has regained its dignity with all the advantages and disadvantages this entails. Just as the emancipated victim was increasingly able to become the master of his fate, the offender is assumed to have done the same. "Crime in not an effect, it is a choice." This is the bottom line in the attitude to crime in the safety utopia. Children like the young murderers of James Bulger are still moral subjects, be it in a development process.[12]

Blake Morrison's efforts to understand are impressive. Given the aversion, the facts relating to the murder of James Bulger have been amply described and the meanings attributed to them have been comprehended. The book does not give an unequivocal explanation. James Bulger's death was an expression of the evil that apparently lurks in human beings even if they are only ten years old, or perhaps more so then than at other ages. Evil is as impossible to *make* as good. Both are part of the domain of morality, where social science rationality only rarely hits on some truth, and even then only with the greatest ineptitude. This awareness is common knowledge in a culture without ideology. The scientific explanation has also lost its status as grand narrative, and this certainly holds true for criminology, with its emotionally charged subject matter.

In the social science enterprise, there is the suggestion that we can understand the morality of the human species, the illusion that it coincides nicely with *true* morality. But the pretension of being able to discover the truth about violent offences deprives the offender of his offence, the victim of his right to compassion, and society of the possibility of defining itself in moral terms. Yet these three notions are typical of contemporary culture. Crime and the victimhood it creates have become everyday matters and are barely evaluated any differently than other forms of behaviour.

An act of violence is perceived first and foremost as a way of overpowering someone. Disapproval of crime is the core of a morality that has become predominant in postmodern conditions. The twentieth-century belief in explaining, managing and improving has been replaced by the disapproval of certain occurrences. The accompanying *responsibilization* has detrimental effects on the attitude to the

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[12] In the opinion of Weijers (2000), the pedagogic assignment of the judge at juvenile court is to make a moral appeal to the child who has committed a crime.

offender (I go into this in greater detail in the following chapters). But there is now also a greater awareness of the importance of seeing good and evil from early youth onwards as unique and decisive categories of human life.

## The attitude of the public

The victim and the offender, in this sequence, are the central figures in the safety utopia. Moral discontent emerges in a risk culture around whatever is rejected or feared. In this victimalization of morality, the offender appears in a different fashion than in the modern era. The victim alludes to a responsible offender who created him. The extent to which the offender can claim his own victim status largely depends on the cultural and political context. There is no denying that together, the crime victim and offender personify this rejection and fear. But the attitude of the public at large is still decisive.

There is unmistakably a dangerous side to the moralization of crime that is observed here and that goes via the victim to the offender. Under the guise of morality, any number of vicious acts have been committed in the past that are atrocities as regards the offenders, alleged offenders and victims alike. This similarly holds just as true of the safety utopia, where the victim and offender occupy such a prominent position. There is always the danger of uninhibited repression if and when—for the good of public safety—agents of morality get their way. Thinking in terms of victims and offenders only serves to nourish the safety utopia and can assume dubious aspects of a scapegoat culture. I feel this is very much a possibility, but for three reasons I would like to put it into a proper perspective.

Firstly, there is a very realistic background for the need for safety. There are numerous spots in society that do not automatically provide the safety people feel they need. The complexity of postmodern society and the freedom we have acquired within it have given rise to widespread fear. It is in this fear that the safety utopia finds an emotional foundation that is nourished by individual experiences, the conversations people have with each other, and media attention. This fear can sometimes seem overdone or even neurotic, but this does not make it any less realistic an experience. In itself the victim experience and the resulting moralization of crime constitute a relevant category in the design of today's social order. The potential scapegoat is at any rate also a realistic offender and should be addressed as such.

Secondly though, the safety utopia is not an isolated desire for safety, it is not a desire no matter what. It emerges from a far wider framework of historically unprecedented freedom and vitality. The constitutional rights that guarantee freedom are not fundamentally a topic of debate. Nor are the social rights under which this freedom can be experienced.[13] The need for safety nonetheless implies the

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[13] This is at most the case on the basis of constitutional considerations. In Chapter 8, I devote attention to the proposal to expand the basic civil rights with a constitutional right to safety.

possibility of a shift towards a more repressive official policy. In Part III, I make an effort to analyse the developments related to criminal law. For the time being, let it suffice to say the need for safety is inhibited by an equally strong desire for freedom.

Thirdly, moralization in the framework of the safety utopia with victims and offenders as the central figures is not unambiguous. On the one hand, it leads to a nostalgic yearning for times of yore when there was less normative ambiguity and for a restoration of the 'Law of the Father'. It can lead to a repressive policy of punishment and control, but it also appeals to people's individual responsibility to each other. What politics is ultimately made of is a rational balance of cultural drives, institutional interests and scientific insights.[14] The victimalization of morality implies various types of victims, who can collectively be referred to as the emancipated victim. Unequivocal disapproval of a public morality dominated by a rejection of victimhood blocks our view of the social hope it might imply.

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[14] See also Van Stokkom, who propagates not institutionalizing the principle of compassion in an essay "Crisis van het medelijden" (Crisis of Compassion, 1996). Rational policy should continue to be the point of departure in matters of morality.

# PART III

# PUNISHMENT, CONTROL AND DEMOCRACY

# CHAPTER 6

# THE CHANGING SIGNIFICANCE
# OF CRIMINAL JUSTICE

*In the safety utopia, there is more of a demand for criminal justice than ever before. It has changed from an **ultimum remedium** into a policy instrument that is perceived as urgent. In a relative sense however, the role of the criminal justice system is on the decline.*

I make an effort in this book to view the safety issue against a more comprehensive background. I borrow the notion from Beck (1986) that society is increasingly organized along lines of risk production and management. Technological advances, globalization, ethnic migration and individualization constitute the dynamic context for an equally dynamic culture. The risk culture creates an atmosphere of vitality and exuberance and simultaneously evokes a need for safety and protection. Leaning especially on ideas formulated by Bauman, I note the consequences of all this as regards our morality and politics of the self.

Postmodern morality is ambiguous. Moral judgments have largely become an individual matter, leading in turn to discontent and identity uncertainty. In this connection I feel it is warranted to say the implicit desire of contemporary culture can be described as a safety utopia: an unattainable fantasy where vitality and safety can coincide. The crime problem represents an articulation of the features of this utopian desire. Offenders and victims are the central figures, and moral consensus develops around them. In this chapter I address the consequences of this as regards criminal justice institutions.

Three factors seem to be directly relevant to the societal function of criminal justice: the actual increase in crime, the greater sensitivity to some forms of crime, and the reduced control of the state and its citizens on the social conditions of their society. I briefly focus on each of these factors in the following section, and also discuss the utopian forms criminal justice can assume. I present two opposite extremes, criminal justice as an ultimate remedy and as a policy instrument that is perceived as urgent. I then go on to concretize developments in the field of criminal justice and conclude that criminal justice institutions are in a paradoxical situation in the safety utopia.

## Crime as a safety issue

Moral discontent and utopian desire can easily be projected on to the crime problem. Clear victims and the accompanying offenders can be observed there,

unambiguous normative limits are set, and remedies are conceivable, though not necessarily feasible. Yet it would not be warranted to see this projection as the final word on the crime problem. Crime has unmistakably become a growing societal problem. As such, it is part of a far more comprehensive safety issue. There are three reasons why.

Firstly, there has been an *increase in the crime problem itself*. Although due to definition issues and methodological shortcomings, the criminological debate on what the *true* crime rates are never seems to be settled, it can be noted that ever since the early 1970s, registered crime has increased tenfold (Huls, Schreuders et al. 2001: pp. 45 ff.). Approximately 1,300,000 offences were registered by the police in the Netherlands in 1999, as compared to only 132,000 in 1960. Taking the population growth into consideration, crime increased to six times its former rate in this period. The greatest rise was in the period from 1970 to 1985, after which it rose more slowly, with a small decrease around 1997.

The more urbanization progresses, the more crimes people commit. The figures vary from 45 to 171 offences by each 1,000 residents, depending on the region. The number of registered crimes of violence grew from a stable figure of approximately 20,000 a year in the 1960s to more than 86,000 in 1999, with the greatest growth in the 1990s. Since people usually do not file charges with the police because they do not consider the offence serious enough or do not expect it to lead to anything, the actual figures are even higher. In 1999 the total number of criminal offences was estimated in the victim surveys at 4,800,000, almost 1,000,000 of which were violent offences. These figures do not include offences in or near places of business such as shoplifting.

Crime or the threat of it have become part and parcel of everyday life. This holds true of the offender as well as the victim side. Small social or financial offences such as fraud or hiring workers off the books, defamation of character or traffic violations have become common practice. Shoplifting is becoming more and more common, and virtually everyone has either been the victim of some more serious offence from purse-snatching to assault or knows someone who has. In other words, crime—the whole complex of acts punishable by law—has become a part of life in the risk society and is thus a real permanent source of discontent.

Secondly, there has been an *increase in the sensitivity to crime* or related conduct such as disturbing the peace. This is why the figures cited above might be distorted. The police might have become more alert in their responses to certain offences so that charges are more apt to be filed. In addition to this registration effect, the sensitivity to victimhood and consequently to crime can be assumed to have increased as a result of the safety utopia. Certain hitherto *unseen* behaviour that can be classified as domestic or sexual violence has now been criminalized. Higher standards have probably also been set as regards personal interaction, for example in terms of sexual intimidation. There is also less and less tolerance for bullying,

and even though it is not punishable by law, it is clearly recognized as conduct that precedes criminal behaviour.[1]

Some authors tend to see this greater sensitivity as a question of putting the crime problem into the proper relativistic perspective. One might wonder though whether this is justified. Greater sensitivity to certain behaviour might also be indicative of a legitimate shift in the definition of suffering and harm. At the end of the 1980s for example, conjugal rape was made punishable in Dutch law by deleting the words "outside the conjugal situation". The amendment to the law was virtually undisputed. There have also been other forms of criminalization, for example as regards environmental or financial offences which are now defined as causing harm.[2]

Thirdly, there is the *increased significance of the state*. The issue of safety has traditionally been an important justification for the formation of the nation state.[3] The nineteenth century witnessed the rise of the night watchman state, where the government gave a certain guarantee of safety and made the necessary provisions. In exchange, the people were willing to obey its laws. In the twentieth century, notions on good and evil were embedded in the great ideological movements—Liberalism, Socialism, Christian Democracy—which ultimately led to the emergence of the welfare state. Crime was a residual category of the successful social order, and criminal justice the ultimate remedy to deal with it.

The relatively low crime rates during the development of the welfare state can perhaps best be explained by the combination of a society that was still relatively highly disciplined and a rise in prosperity. In this situation, criminal justice could still be used to correct the imperfect social control mechanisms. The ideological discipline related to criminal justice prohibitions has however disappeared. Criminal justice prohibitions are no longer embedded in a more or less unambiguous moral context that guarantees their legitimacy. The state is having a harder time guaranteeing a certain extent of safety, which is why there is growing pressure on its legitimacy in the eyes of the people.

It is not my intention to further analyse these factors here. It is important though to note that these three factors, the increase in the crime problem itself, the increase in the sensitivity to crime, and the increased significance of the state—have led to an enormous burden on the criminal justice system. For these very real reasons, in the safety utopia crime has thus come to play a dominant role in the contemporary cultural and political consciousness. The question is what function criminal justice institutions now serve in this altered context. To answer this question, first I would

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[1] Junger-Tas and Van Kesteren (1999).
[2] See e.g. Sherman (1994) on criminalization.
[3] Van Creveld (1999) demonstrates that the issue of internal safety is related to processes of globalization and individualization. The guarantee of internal and external safety is one of the foundations of the legitimacy of the nation state as it developed in the course of the nineteenth century, but has since grown increasingly problematic.

like see what function they *could* serve. To examine the functions attributed in this connection to punishment and control, I once again take utopian thinking as my point of departure.

## Two prototypes of criminal justice

Given the features of the utopia and its imperative, collective nature, the question of what to do with deviant individuals plays an important role in utopian thinking. Bellamy's depiction of the world in 2000 described in Chapter 2 assumes a community will so compelling that virtually everyone adheres to it. In his view, criminal behaviour represents virtually extinct remains of a distant past. Control and punishment barely exist. In other utopias, there is far more evidence of the control and punishing task of the state. Achterhuis notes that in utopian thinking, antisocial behaviour often leads to draconian sentences such as slavery or capital punishment. In More's *Utopia*, committing adultery for the second time is punished by death.

A widely discussed control institution in the utopian imagination is Jeremy Bentham's *Panopticon* (1791). From the centre of this domed prison, it is possible to supervise all the conduct of the prisoners in transparent rooms. The inspector in the middle is expected to be able to see everything via *light force* and always be audible via a system of pipes. In Bentham's view, the Panopticon is not simply a solution for deviant individuals, it is crucial to the social order he envisions. In essence it is the centre of his utopian world. Bentham even calls the Panopticon "my own utopia".

Bentham's idea is to mathematically create a society according to the principle of the greatest happiness, and he develops his own *happiness calculus*. To achieve this utopian instrument, it is absolutely necessary to penetrate the most intimate sphere of life. Bentham is more aware than anyone that punishment is a necessary evil. "All punishment is unhappiness: all punishment is an evil in itself. If punishment is permitted at all on the basis of the utility principle, it can only occur to the extent that it makes it possible to exclude an even worse evil" (quoted in Achterhuis 1998, p. 269). According to Bentham, punishment should mainly have a preventive effect. As the ultimate deterrent, it should be focused on people who have *not* broken a law.

This is why Bentham even feels it is feasible to populate the Panopticon with fictional prisoners, and it would suffice to solely assume the presence of the inspector. His utilitarian dream can only be carried out by a deterrent institution that sets and enforces the norms in the community. Via this kind of institution, the community can achieve optimal happiness for as many people as possible.[4] The panoptic penitentiary is the state-created centre of the community.

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[4] According to Foucault, the counterpart of this meticulous control emerged in the social technocratic control function of the modern state. He refers to the microphysics of power (Foucault 1975).

In other words, control and punishment are necessary elements of utopian system thinking. A distinction can however be drawn as regards the function attributed to them. On the one hand, there is the utopian depiction of a community that is so successful that the whole criminal justice system is redundant. Bellamy views punishment as merely a residual product of a perfectly organized community. There is no crime in the world he envisions, and consequently no criminal justice either, there are no lawyers and even the science of law has virtually disappeared. The control function has been totally taken over by the closely organized community, where the deviant will of the individual has dissolved into the will of the community. In Bellamy's view, crime is an atavism, an obsolete imperfection in the system that can be easily eliminated.

On the other hand, there is the position that accords punishment a central educational function. Here punishment is not something that is over and done with, it is a vital and necessary component of the utopian order. It is the aim of criminal justice to make people afraid to exhibit even slightly deviant behaviour. Bentham calls the Panopticon his own utopia because with a minimum of actual punishment and possibly even with fictional prisoners, it is able to implement maximum disciplining of the individual for the common good. The extent of punishment is determined by its effect on the rest of the population.

Via these two utopian examples, it is possible to distinguish two criminal justice positions with certain fundamental differences. The two positions can be viewed as *ultimate* and *urgent*. If the position is ultimate, there is a penal response as the last resort in the event of unexpected deviance. In the last instance, ultimate criminal justice is indeed the last instance, and plays a role in correcting the last remains of individual disobedience. The community does the control work, which is preferably not perceived as such. If the position is urgent, the penal response is a conditional instrument to establish the general will. Urgent criminal justice is a necessary, permanent institution. It establishes the norm and should serve as enough of a deterrent to subordinate deviant citizens to the general will.

### Features of ultimate and urgent criminal justice

| *Ultimate criminal justice* | *Urgent criminal justice* |
| --- | --- |
| Strong community | Dominant state |
| Special prevention | General prevention |
| Individual resocialization | Community deterrence |
| Maximal enforcement | Selective enforcement |
| Principle of legality | Principle of expediency |

In an effort to describe the meaning of criminal justice in the safety utopia, I have listed the features of both forms of criminal justice above. In the case of *ultimate criminal justice*, there is a strong community that uses its close ties and its social control over its members' behaviour to regulate and maintain the social order. It is the criminal justice that goes with Tönnies' *Gemeinschaft*. The community

is characterized by natural mutual understanding shared by all the members. In exceptional circumstances, criminal justice serves to confirm the norms held in the community. It is from this perspective that Durkheim refers to the criminal trial as "a celebration of morality". When an offender is sentenced and convicted, this confirms that the community is morally right.

The penal goal in keeping with ultimate criminal justice is special prevention. The sanction should correct the incidentally deviant individual and preferably resocialize him. Its only task is to monitor and improve anyone who is lacking in natural understanding. If the community does its job well, there is little need for criminal justice. This is indeed the case in Bellamy's view of the future. Criminal justice has become redundant because the community functions optimally and its members automatically adhere to its conditions, "the understanding is there". In principle, the aspiration to prosecute all the appropriate cases is in keeping with this type of ultimate criminal justice. So it functions maximally, be it only incidentally, on the basis of the principle of legality. If too many of the people deviate from the rules, the system is in trouble.

There is a totally different context and function in the case of *urgent criminal justice*. Firstly, it operates on behalf of a dominant state. Criminal justice is not the tail piece to a coherent community where there is an automatic sense of communality; criminal justice plays a central role in the normative construction of the community. This type of criminal justice is more suitable to the *Gesellschaft* described by Tönnies, a complex society of individuals, organizations and institutions with their own motivations, goals and interests. The communality in this type of society is permanently under construction. Its unity should be something people are willing to fight for and if necessary to exact by force, and to this end, a punishing agency is called for.

In this type of context, the purpose of criminal justice is not to confirm an existing communality but to construct a community that does not yet exist or never has or will. It does not so much serve a control as an explicit steering function. It does not adhere to the norms, it sets them. The penal goals of urgent criminal justice are general prevention and deterrence. The central goal is not to correct the individual but to monitor the population. The system does not aspire to the prosecution of all deviants, even if it were feasible. The aim of urgent criminal justice is to efficiently and effectively set the norms, and it is thus far more apt to be selective in its enforcement. Urgent criminal justice operates from the perspective of expedience. It intervenes at the places where and the moments when the norm most emphatically needs to be set.

### The sense of urgency

The utopian worldviews of Bellamy and Bentham envision two forms of criminal justice, neither of which actually exists as such. Depending on the crime and punishment climate, the existing criminal justice practice steers a middle course

between the two positions. Any number of options are conceivable between the two poles. In practice as well as theory, deterrence, prevention, resocialization (reintegration) and the stipulation of norms are all realistic penal goals. In designing sanction policy, the point of departure is generally mixed theories that combine various penal goals.

I have not listed retribution, the most prominent penal goal, separately under either of the prototypes. In itself, this penal goal does not have the utilitarian function that is so important to utopian thinking.[5] In addition to retribution, punishment always implies a certain extent of hope, even if it is viewed as a necessary evil. The distinction between ultimate and urgent criminal justice can help make the numerous implicit ideas about them more explicit. Although various tendencies can be discerned in contemporary criminal justice thinking, the hypotheses seems to be justified that the dominance of the safety issue has led to a shift in the expectations as regards criminal justice. It is perceived as an urgent agency for establishing the social order. A number of related empirical points of reference can be given for this shift.

In a societal sense, criminal justice was a marginal issue up until the beginning of the 1980s. The administration of criminal justice was something for specialists and the system's own officials. Starting in the mid-1980s, there was a drastic change in this situation. In view of the present-day media interest in investigation, prosecution, sentencing and crime itself, a great deal of importance is attached to the criminal justice intervention. The performance of the criminal justice apparatus is carefully observed and criticized if it fails to meet with public expectations. In this sense, the normative function of the criminal justice system is vast. Criminal justice has become people's business.

The shift to a remedy that is perceived as urgent is also evident in the proactive view the Police and Justice Departments increasingly take of their jobs. A striking example of this is the *Justice in the neighbourhood* project. Following the police example, the Dutch Justice Department has opened offices in problematic neighbourhoods and districts in an effort to put the law into effect more rapidly, with more understanding for the context, and in conjunction with related services (child care and protection, probation and rehabilitation officers, victim aid agencies) and social work organizations (community and youth centres and so forth). With this new organizational form, the authorities, in this case the criminal justice system, play more of a role in maintaining the social order of community life in the cities.[6]

There has generally been a shift in the criminal justice approach over the past two decades (see e.g. Schüler-Springorum 1999). Pre-penal forms of settlement

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[5] In penal theory references are made to consequentionalism; punishment is viewed as having a goal in the future that goes further than just making someone suffer.

[6] See the policy paper *Justititie op maat aanwezig* (Made-to-order Justice in Evidence, 1999) and the later *Addendum* (Supplement, 2000). For a discussion on the exact nature and the desirability of this trend, see Boutellier (1997, 19..).

have been developed for small offences (Halt, short for *Het alternatief* = the alternative) and the public prosecutor model has been introduced. A total of 82% of the crime committed by minors is settled outside the juvenile court via Halt and the public prosecutor (Huls, Schreuders et al. 2001: pp. 149 ff.). In other words, the criminal justice system has become more pro-active and its influence is apt to continue to be exerted in the future.

The increasingly selective aspect of criminal justice is evident from the peremptory introduction of criminal justice *policy*. Criminal justice is no longer viewed as the logical last resort, but choices have to be made. Due to the enormous number of cases, there have to be investigation and prosecution priorities. The priorities have to do with feasibility (which cases are apt to be most successful) and public opinion (which cases appeal most to the public's sense of justice). The principle of expediency has always played a role in the Dutch criminal justice system. It was mainly however a matter of decisions at the case level. The idea is relatively new of formulating the expediency of investigating, prosecuting and sentencing at the offence level. In their annual plans, the Police and Justice Departments both formulate priorities as regards the nature of the offences they are to specifically focus on.

Especially in prevention policy, it is clear that normative demands are made on the social order along criminal justice lines. This policy is focused on enabling other agencies to work in such a way that punishable acts can be prevented. At schools, in community and social work agencies, and in municipal policy, the desire for safety has come to play an increasingly dominant role. Safety is no longer presented as a self-evident effect of social policy. Instead social policy is defined in accordance with the norms as they are stipulated in the law books (see Chapter 8). The norms defined in the law books constitute the source and the guidelines for the normative design of a number of social and societal institutions.

Although there is not always evidence of unequivocal developments, the most striking changes demonstrate that criminal justice and the policy related to it exhibit more and more features of urgent criminal justice. The administration of criminal justice has been steadily developing into an instrumental function of the state, and is dominantly in evidence as such and as its derivatives in the design of society. Its sphere of influence has unmistakably grown as a result of the stricter organization of its own organizations, its influence on the definition of social problems, and the greater physical exposure in the media and in the public domain. One might speak of a *societalization* of criminal justice.

Other institutions are however also appearing in the area the Police and Justice Departments were traditionally responsible for. There is for example the growing influence of administrative law in the field of prevention or in the enforcement of criminal justice norms. Efforts are made to counter nightlife violence via measures in the framework of the Hotel, Restaurant and Café Act. Simple traffic violations are settled by administrative law. The security industry, private investigation agencies (De Waard 1999) and forensic accountancy have mushroomed. Other prevention and enforcement agencies that serve a monitoring but not a

sanctioning function[7] have come to the assistance, as it were, of criminal justice institutions. Criminal justice is attributed with an urgent position, but is surrounded by numerous other control institutions.

## The criminal justice paradox

After this discourse on the utopian positions of criminal justice and the observation that expectations have shifted towards criminal justice as an institution perceived as urgent, its role in contemporary society can be determined with greater precision. I think there is good reason to speak here of the criminal justice paradox. A climate has developed in the safety utopia where a meaning has been attributed to criminal justice in general and punishment in particular that is not easy to live up to. I can approach this paradoxical situation from three perspectives, a quantitative, a qualitative and a theoretical one.

In a quantitative sense, the call for more safety in society has had certain ramifications. In absolute figures, there has been a sharp rise in the criminal justice system and in its *production* (Huls, Schreuders et al. 2001: pp. 854 ff.). Despite this growth in the criminal justice system as such, its reach remained limited, and even became increasingly limited in the course of time. The following figures can illustrate this. Less than a quarter (1,300,000) of the estimated total of 4,800,000 criminal offences in 1999 were registered by the police; in most cases, the charges were filed by the victim.[8] Approximately 15% of these registered offences were actually solved, which amounted to about 195,000 cases in 1999 (Huls, Schreuders et al. 2001, p. 45).

One offence can be committed by various offenders, and one offender can commit various offences.[9] It should be noted in this connection that the more serious the offence is, the greater the chance of an offender being found, and in 1999 45% of the reported violent crimes were solved. These figures are nonetheless a far cry from the success rate of 1960, when 55% of the crimes and 90% of the violent ones were solved.

Although the Department of Justice production increased in an absolute sense, in comparison with the increase in the crime rates themselves it remained far behind. In 1960 more than 120,000 cases were registered with the public prosecutors at the district courts, a figure that rose to 235,000 in 1999.[10] If the public prosecutor decides to prosecute a case, the suspect is summoned to appear in court, as was done approximately 115,000 times in 1999. An independent judge evaluates the extent

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[7] Not counting administrative fines.

[8] There is a difference between the number of cases reported to the police (1,600,000) and the number of cases registered by the police (1,300,000) in 1999. It is striking that charges were only filed with the police on less than 10% of the estimated number of violent offences.

[9] In 1999 a total of 267,200 suspects were interrogated by the police.

[10] This figure was 279,000 in 1987 and gradually fell in the subsequent years.

to which the suspect is punishable by law (evidence and guilt) and sets the sentence based on the proposal made by the public prosecutor. In 1999 approximately 45,000 suspects were sentenced by the judge to imprisonment, sometimes in combination with a fine.[11]

The public prosecutor also has the authority to issue a sanction by way of a transaction without the intervention of a judge, and the total number of sanctions issued to adults was more than 155,664 in 1999. In 1960 a total of about 47,000 sanctions were issued. Although registered crime increased tenfold in this period, the sanctions only tripled. Of the sanctions, the number of task punishments, previously known as alternative sanctions, for adults amounted to about 21,000. The task punishments for juveniles issued either by the public prosecutor or the judge increased from the time of the introduction to about 12,000 (Huls, Schreuders 2001, p. 150). Halt settlements, involving a sanction outside the penal code for minors for a limited number of offences, were made in 22,756 cases in 1999. So in an absolute sense, it seems as if crime is being punished more than ever in the Netherlands, and yet the figures are still far behind the actual rise in crime rates.[12] As regards the 4,800,000 crimes committed by adults against individuals, there was a Justice Department response in almost 156,000 cases, and if the cases against minors are included there were more than 190,000 interventions. There was a prison sentence, sometimes a suspended one, in a quarter of them (45,000). The demand for criminal justice is apparently expanding, whereas the supply is ultimately limited and in a relative sense it is even decreasing. The growth of the criminal justice apparatus may well have been considerable, but it is still relatively limited as compared to the total crime volume.[13]

The supply is also restricted in a qualitative sense because in the end, there is just so much the criminal justice system can do. The response often comes too late in that judges often have the impression something should have been done earlier. What is more, the system is extremely slow. The public prosecutor is still very far from achieving the goal that has been set of settling 75% of the cases within half a year.[14] What is more, sanctions are generally not very effective. Not much information is available on recidivism, but it is generally assumed that in the course of time, 30 to 70% of the people who have served prison sentences are arrested again. Of the youngsters at judicial institutions for juveniles, 53% are already documented in the judicial administration (Huls, Schreuders et al. 2001, p. 170).

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[11] In 1999 42,251 offenders were sentenced to prison terms of various lengths; on an average day there were 11,673 convicts imprisoned in the Netherlands.

[12] The figures presented here include numerous complications and reductions. See the chapter by Van Tulder (pp. 221–249) in Huls, Schreuders et al. (2001), where he discusses the complications in connection with the criminal justice chain.

[13] This observation was the basis for the policy paper *Criminaliteitsbeheersing* (Keeping Crime Under Control, 2001), proposing a sizeable expansion of the criminal justice chain, which would be expected to lead to a rise of a few percent in the percentage of cases solved and sanctioned.

[14] In 1999 the disposal time for cases was 235 days at the three-judged criminal court, 218 days at the police court and 210 at the juvenile court (Huls, Schreuders et al. 2001, p. 103).

Qualitatively speaking, the criminal justice system is an admission of weakness, be it a necessary way out, that is preferably only used if all else has failed. In actual practice, the moral claim that plays such a prominent role in justifying punishment is not very effective. Garland (1990) speaks of the "tragic quality of punishment". Since punishment implies a moral condemnation but usually fails to generate any moral involvement on the part of offenders, there is a good chance condemned offenders will be alienated from the moral consensus rather than drawn to it. Garland holds that punishment produces exclusion rather than integration. Punishing offenders might be seen as necessary in order to reinforce the norms, but for the offenders themselves it often has the opposite effect.

This takes us to a theoretical reason for speaking of a criminal justice paradox. Criminal justice has developed into an *ultimum remedium*, a last resort that is preferably avoided in an effort to keep state power to a minimum. Historically speaking, it is a product of the political will to restrict the power of the state vis-à-vis the people, which is why criminal justice scholars frequently focus on the safeguards for the suspect that are embedded in the interventions. This development is described in detail by Foqué and 't Hart (1990).

In the shadow of the urgency that is perceived regarding the safety issue, there has been a sharp rise in the demand for criminal justice. In fact more is expected of criminal justice than it can ever do. In a quantitative sense, there is no way it can even come close to meeting the demand. To be able to keep pace with the increased crime rates, the Police and Justice Departments would have to be drastically expanded. A return to the 1960 percentage of solved cases would be totally inconceivable. In a qualitative sense, criminal justice is in the unsatisfying position of never being able to fulfill the hope that prospective offenders will mend their ways.[15] In a dogmatic sense, the system has not been set up as an institution that creates order. The criminal justice urgency that is perceived in a safety utopia is thus diametrically opposed to a relatively weak position in an instrumental sense. There is evidence of a growing demand for an institution that in a quantitative, qualitative and dogmatic sense can be no more than an ultimate remedy.

**The totalitarian temptation**

The utopian imagination implicitly plays a role in political and moral discussions. This is also the case where the role of criminal justice in solving safety issues is involved. In the pursuit of ultimate criminal justice, there is a prevailing belief in *the good community*. A belief of this kind is evident for example in the abolitionism described by criminologists like Hulsman and Bianchi. It was very much in keeping with the utopian optimism of the 1970s. In the spirit of the times, people believed

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[15] Following the examples of Canada and Great Britain, an effort is also being made in the Netherlands to introduce effective reintegration programmes. On England and Wales, see *What Works*, 2001 and 2002.

it was possible and even necessary to abolish the whole criminal justice system. At the moment though, the second utopian image of urgent criminal justice would seem to be dominant, with the idea that criminal justice contributes to the social cohesion of society.

If we bear in mind that the present-day pluralist culture implies considerable normative multiformity, this is an understandable development. As society loses its communality, a stronger normative function is attributed to criminal justice.[16] This situation has undergone a radicalization in recent decades, with the criminal justice system being called upon to play a socially ordering role. The call for a safe society has emerged against the background of a risk culture, with the growth of the crime problem and the greater sensitivity to it serving to permanently intensify the discontent.

The fact that the state is sensitive to the call for safety has to do with its need to legitimate its position in precisely this very field. If the state is unable to adequately guarantee the safety of its citizens externally as well as internally, there are going to be serious repercussions. The question here is focused however on the role that should be reserved for the criminal justice system. I have observed a shift from the ultimate to the urgent criminal justice position. Does this promote the emergence of the features of a repressive safety utopia? I don't think we have too much to worry about at the moment, since criminal justice can only be a limited remedy.

The shift described above is taking place in the shadow of the whole safety issue, and is not inspired by a totalitarian image of society. It is occurring more in a historical and cultural situation of unprecedented individual freedom. The need for safety does not arise due to a rejection of individual freedom, but as a supplement to it. The normative, urgent function of criminal justice arises in a period of moral fragmentation. A realistic estimate of the present problems in society would at any rate lead to criminal justice institutions being more linked as normative agency to the functioning of the other institutions in society and to the problems of the people.

The legacy of the utopia nonetheless serves to keep us on guard for utopian fantasies. In essence, neither of the extreme positions are very attractive, neither the one where criminal justice becomes an anachronism (communitarianism gone haywire), nor the one where it determines the whole design of society (a police state). The ideal of a criminal justice system that keeps its distance is however no longer adequate to cope with today's safety issues. The shift to an urgent form of it should be viewed as a necessary form of societalization. In the discussion on criminal justice policy, this produces a picture of a dynamic safety policy on the one hand and a reluctant criminal justice discourse on the other. In criminal justice theory, there is often insufficient awareness of the altered normative position that its subject has come to occupy.

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[16] J. Q. Wilson (1994) refers in this connection to a link between morality and law as communicating vessels. To the extent that morality is unequivocal, law can play a modest role. The more varied morality is, the more law becomes an institution that creates unity.

Against this background, there is a third criminal justice position that might be described as desirable, i.e. as a pragmatic agency that acknowledges its normative role in the framework of a safety policy, but at the same time does not allow itself to be tempted into a dominant role. Neither politicians nor criminologists, nor for that matter criminal justice institutions should be tempted into *ending all evil*, or even vaguely suggesting that they are able to do so. I would like to refer in this connection to a credible criminal justice system that is aware of its own restricted position, but still pursues the highest quality it can achieve. Undesirable acts are a necessary part of human society, and should be responded to as such. The normative role of criminal justice should however focus on stimulating the self-regulating capacity of society.

It is encouraging that the need for safety seems to be providing ever new stimuli for a fresh approach to several of the liberal culture's points of departure. The debate on morality, upbringing and social cohesion has been triggered as it were by the safety issue, but also appeals to other parties than the criminal law enforcement institutions. What is more, initiative is being taken in areas related to criminal justice to allow moral practices to develop. There are for example the debates on restorative justice and mediation (see Chapter 7). Criminal justice has to play an urgent role for the simple reason that in itself, the safety issue concerning certain offences and at some spots is an urgent one. It should however mainly focus on revitalizing the resilience of the social order, and only if and when it is perceived as being called for.

The criminal court judge and in his wake criminal justice policy can not refuse to face the victim's feelings and the public's sense of justice. By means of legal objectification and proceduralization, he mediates between the offender's story, the victim's scream and the public's call for justice. The criminal court judge can not allow himself to be influenced by any of these parties. But he can pronounce a verdict that the parties will have to reconcile themselves to, although this reconciliation will always be unsatisfactory or only temporary. The decision of the judge will never be able to resolve the victim's suffering and will only partially be able to satisfy the public's sense of justice.

To much the same extent, this tragic position of the criminal court judge pertains to the criminal justice policy in the framework of safety. Criminal justice has abandoned its ultimate position, but will have to be all the more conscious of its limitations. It will only be able to withstand the totalitarian temptation if it comprehends its altered position in the social order and deals with it with the utmost care. Legal scholar Remmelink once called criminal justice "a worrisome business" and added that it ought to stay that way. Criminal justice and the policy based on it should be wary of the irreconcilability that characterizes every utopia.

# CHAPTER 7

# CRIMINAL PROCEEDINGS AS TRAGEDY

*Given the criminal justice paradox, two tendencies are evident in criminal justice policy, i.e. to rationalize the administration of criminal justice and to moralize the criminal offender. Multifarious forms of settlement are emerging.*

Criminal justice is increasingly perceived as an urgent social institution. Rising crime rates, the greater sensitivity to crime and the importance of protecting people from the legitimacy of the state have turned crime into a number one issue. This means our mind set on criminal justice is no longer shaped by an elite group of criminal justice scholars and legislators. The role of criminal justice is also discussed in other fields of science, in the political arena and more than anywhere, in the media. Public prosecutors, criminal judges and criminal lawyers are popular radio and television guests.

Criminal justice has become a public and a political matter, with all the ramifications this entails. In the framework of the safety utopia, huge demands are made of the criminal justice system and expectations are high. To a certain extent, the law in general and penal law in particular are there to protect us from a number of very real risks. What is more, in criminal proceedings much of the discontent discussed above can be projected and several features of the safety utopia can be put into practice. Norms objectified in criminal law put an end to the moral ambivalence of our times and criminal proceedings generate clear criminals and victims. Law *digitalizes*, as the Dutch sociologist Schuyt once noted, and that creates clarity in uncertain times.

The huge demand for criminal justice has paradoxical effects. I demonstrate in Chapter 6 how this demand has come up at an institution that was in essence unprepared for it. On historical and dogmatic grounds, criminal justice is set up as the ultimate remedy. In addition, it is common knowledge that sentencing is often counterproductive. Even though the criminal justice system has mushroomed, its coverage of the total amount of crime committed is only decreasing. The coverage was 35.6% in 1960, but by 1999 it had gone down to 14.6%.[1] There is thus a huge

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[1] In a country with an annual 1,300,000 registered crimes, there are only a total of approximately 190,000 sanctions. In 1960 there were 131,800 registered crimes and 47,000 sanctions. The limited instrumental function is even clearer if we compare it to the estimated total of 4,8000,000 criminal offences and see that it only pertains to 3.96%.

discrepancy between demand and supply. The criminal justice system can barely do the job its public expects it to, which is to provide a safe society.

This limits the credibility of the criminal justice system. From a political point of view, according to Garland (2001, p. 20) the enforcement of law and order has entered the danger zone. The system constantly generates risks, scandals and escalating costs, and no one knows where it will end. Anyone who has been reading Dutch newspapers for the past couple of years is sure to agree, what with the shortage of prison cells, dramatic prison escapes, the Netherlands as drug trade hub, drug couriers swallowing drugs and landing at Dutch airports, the *mutiny* at the Office of the Public Prosecutor and so on and so forth. Justice Department officials are no longer automatically attributed with autonomous power and discretionary competence.[2] The strict demands and high expectations of the criminal justice system generate a permanent sense of crisis as regards the Police and Justice Departments.

Based on the diagnosis in this book, it should be noted though that the expectations of the criminal justice system have more to do with its normative significance than its instrumental role. In this chapter I try and pinpoint exactly what criminal justice can do in the present-day social context of moral discontent, real safety risks and high expectations. By criminal justice, I am referring to the entire set of institutions involved in the enforcement of legal norms, the violation of which entails legal sanctions.[3] To this end, I then focus on the altered meaning of punishment and its consequences for the enforcement of criminal law. In particular, the position of the victim calls for further reflection.

### Meanings of punishment

In the early twentieth century, Emile Durkheim elaborated on the idea that criminal justice serves a normative function in the continuity and innovation of society.[4] Durkheim draws a link between criminal justice and the collective consciousness of a community. As violator of a norm, the criminal is a common enemy who evokes emotions and solidarity and promotes affection among the citizenry. In punishing the criminal infringement on the moral consensus, the community confirms its normative equilibrium. The moral sensibility of the community is what shapes its criminal justice, which in turn confirms the community. On occasion the criminal can even lead the way in amending the community's morality.

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[2] Given for example the construction fraud settlements and other instances of company crime that caused such an uproar in the Netherlands in 2002.

[3] There are far more legal provisions, the violation of which entails sanctions, than just the ones in the Code of Penal Law.

[4] Durkheim is viewed as the founding father of the sociology of punishment. Of course this branch of sociology is influenced by its main schools. And the other way around, the study of punishment has contributed to general sociology theory. Together, crime and punishment line the shabbier margins of the social order and constitute a good point of departure for the study of its structure.

Durkheim views criminal justice as a celebration of the morality of a community. Via criminal proceedings, the community confirms its norms and is sometimes called upon to adjust them. Emotion, morality and community are three key words in Durkheim's analysis of the function of punishment. In the course of the twentieth century, two other perspectives emerged to compete with Durkheim's moral approach. Firstly, as of the 1960s criminal justice was exposed as an instrument of the ruling class or the state to discipline the people. Secondly, its normative aspect was overshadowed by a rationalization process centred around the efficiency and effectiveness of the implementation of punishment.

Durkheim barely gives any explanation for the historical determination of the collective morality or the social conflicts it was founded upon (Garland 1990, p. 49). But of course criminal justice also plays a role in the construction of the field of social forces. In particular, the classical text by Foucault, *Surveillir et punir* (1975) still exerts enormous influence on our critical thinking about punishment. His analysis can be concisely summarized by saying that punishment serves our social disciplining. Punishment, Foucault feels, is not so much the instrument of the ruling class as a disciplining strategy of power.

In Foucault's view, Bentham's Panopticon, the ideal prison referred to in Chapter 6 where the prisoners' every move can be monitored from a central point by an ingenious system of light and sound, is the model for exercising control over the entire social order. In this view, criminals are not so much punished as constructed, and with them criminology as the science of *criminals*. The criminal act has been in existence throughout history, but the criminal is a modern invention, or so Foucault holds. In the criminal approach, criminal justice is primarily viewed as an exclusion mechanism.

This criminal approach keeps us on guard as regards the other side of the punishment coin—social exclusion—but fails to focus on the moral considerations and social struggle criminal justice reforms are based upon. According to Garland, a "hermeneutics of suspicion" is dominant in this sociology of punishment (Garland 1990, p. 193); convictions and sensitivities would seem to mistakenly play no role at all in explaining the developments. Foucault might for example view the abolition of corporal punishment as a power strategy, but there is also evidence of at least a civilization that is advancing, and nowadays corporal punishment is simply perceived as an insult to humanity.

The moral meaning of criminal justice has also been overshadowed by the logic of control. I would like to refer the reader to Max Weber, who analyses the modernization process as a process of rationalizing and bureaucratizing. In his work, Weber never makes any specific statement about the function of punishment, but he does have something to say about the importance of disciplining in modern societies.[5] It is arranged along rational lines, with science informing in a value-free fashion and management focused on efficient and effective implementation. Modern criminal justice practice has also acquired characteristics of goal rationality.

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[5] On the relation between punishment and bureaucracy, see e.g. Rothman (1980).

This is evident for example in penology, the punishment branch of criminology that focuses on the social technological support of the sanction policy.

As a result of punishment being rationalized in administrative processes and their professional implementation, the moral sentiments underlying punishment have been marginalized. There is evidence of a technical dehumanization of punishment, the advantage being that negative emotions no longer play a role in the treatment of convicts. They are evaluated based on their institutional conduct and no longer on their offence (except perhaps by their fellow convicts). As a form of deprivation of liberty, detention as such is the punishment and the regime should not be arranged in such a way as to be even more punitive. This dehumanization has thus had a humanizing effect on the implementation of punishment.

In summarizing, there are three ways of looking at the societal function of punishment. As it is analysed by Durkheim, punishment is mainly a moral matter to serve the community in its need for normative consensus. From a critical perspective, punishment is predominantly a disciplining or excluding instrument for the ruling class, the state, or more intangible power relations. Analogous to Weber's analyses, lastly punishment is a control issue in the framework of the goal rationality of modern society. All three of these factors play a role in criminal justice practice. There is evidence of a rationalized execution of a criminal's being morally condemned to punishment, which is what often leads to exclusion.[6]

In the contemporary cacophony on criminal justice, the normative function is however becoming increasingly visible. A wide range of feelings ranging from sympathy and empathy to rage and indignation are struggling for priority in the approach to offenders. We can no longer work from the assumption that was valid for Durkheim of the existence of an unambiguous moral community. The renewed moral perspective is on the rise in a strongly fragmented morality. Punishment has an imperative function as regards a number of basic principles of the moral order in a society that is largely morally ambivalent. In this way, the punishment itself becomes a cultural agent. Present-day punishment "communicates meaning with respect to power, authority, legitimacy, normality, morality, personhood, social relations and a host of other tangential matters" (Garland 1990, p. 252). The question is to what extent criminal justice can go along with this.

## Punishment as communication

The meaning of punishment is inextricably linked to the cultural climate that surrounds and shapes it. Cruelty and civilization are the antagonistic key words in the history of punishment. The more the civilization process advances, the

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[6] The punishment culture constitutes "an amalgam of penology theories, stored experience, institutional wisdom, and professional common sense that provides the frameworks for the acts of the punishers and that grant meaning to what they do" (Garland 1990, p. 210).

more cruelty is relegated to the background.[7] Corporal punishment is no longer accepted because we reject any clear evidence of suffering. We have much less trouble with mental torture though, especially since it occurs outside our range of view: "Modern punishment is designed so that the violence its practices continue to imply can simply be ignored" (Garland 1990, p. 241). But this has never been completely successful. We understand how cruel punishment is, but we still feel we can not do without it: "Civilization thus transforms us into unwitting hypocrites" (Garland 1990, p. 238).[8]

The punitive emotion that essentially goes against the grain of Western society can only be comprehended if we realize punishing means more than simply excluding criminals. The threat generated by the criminal goes far further than the actual risk of being victimized. The fear of crime also has to do with the threat of the moral order that is there to keep our own aggressive impulses under control. Punishment also provides deliverance, be it only temporarily, from the moral discontent characteristic of complex modern-day society.

In so far as punishment is considered something inevitable, it should be viewed more as a morally expressive enterprise than as a purely instrumental matter. This communicative, moral conception of punishment is shared by various authors. The idea that in administering punishment, the message is communicated that the retaliated act is morally repugnant is not only expressed by Durkheim, but also by such authors as Feinberg (1970) and Morris (1981). Morris holds for example that punishment is a complex communicative operation that addresses the offender as a moral party and conveys the message that the offence has violated values shared by the community and is consequently a wrong thing to do.

Duff has recently elaborated upon this communicative position (see e. g. Duff 2000). He adds to it the consequentialist notion that the offender is expected to be able to understand his wrongfulness and adjust his future conduct accordingly. This conception plays an important role in the task punishments and the programmes implemented to reintegrate the offender in society after serving his sentence.[9] Duff holds that punishment represents an effort at moral persuasion, and that is indeed what it should be focused on.[10] Punishment should be a kind of secular penance. Weijers (2000) expresses this view in the field of criminal justice for juveniles as an "invitation to engage in moral reflection". The juvenile court judge expresses a moral entreaty to youngsters to think about their acts and their future behaviour.

There is however a perilous aspect to this theoretical conception. Since punishment implies a moral condemnation but usually fails to generate any moral

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[7] I would like to refer the reader to the impressive study by Franke (1990) on the history of the prison system.

[8] The humane way capital punishment is carried out in the United States is the schizoid peak of the modern dichotomy between cruelty and civilization.

[9] In the Netherlands, the first steps towards this kind of development are evident in the manual *Effectieve strafrechtelijke interventies* (Effective Criminal Justice Interventions, 2001).

[10] Duff prefers moral persuasion to moral education, which he rejects as being paternalistic.

involvement on the part of the offender, there is a good chance condemned offenders will only be alienated even more from the moral consensus. Punishment does much more to bring about instrumental exclusion than normative integration. Punishment is viewed as being necessary in order to confirm the moral community, but usually has the opposite effect on offenders. Duff refers explicitly to the ideal typical nature of his communicative justification for punishment.

The tragic quality of punishment is confirmed in a study by Komter (1994) analyzing the communication in the courtroom. Komter notes in her analysis that the moral entreaty of the presiding judge often results in the opposite. None of the suspects who more or less confess deny in principle that what they did was wrong and a number of them want to make amends and better their lives. In the courtroom context though, remorse often becomes a kind of strategy, damage is reimbursed as an act of obedience, and the judge often writes off plans for a better life as something unfeasible or out of the question due to the need for punishment. In other words, the administration of criminal justice can have diametrically opposing consequences. On the one hand, it constitutes a ritual of righteousness, and on the other its moral credibility is destroyed by the nature of criminal justice itself.

The moral function of criminal justice has come to have more and more significance in the safety utopia. We realize that morality is ambivalent and that morally addressing the offender is doomed to fail. This is why punishment is more than ever an emotional matter. Enormous investments are made, but there are various interests involved. The offender, the victim and the public each make their own demands. It is characteristic of the present-day situation that the classical criminal justice goals have been combined into an emphatically normative criminal justice function. But there has been a drastic change in the moral context of criminal justice. And the criminal justice interventions have been adjusted accordingly.

## Rationalizing and moralizing

With secularization, monitoring and disciplining institutions have largely been released from whatever ideological ties they had. In the family, the school, the work situation and the social work or social club context, to a certain extent the traditional relations of authority have now been abandoned. In the pillarized ethics of obligation, a coherent belief in good and evil is linked to everyday rules and regulations, etiquette and rituals. In the 1960s, they were shown to be hypocritical, meaningless or authoritarian. This did not necessarily herald an age of immorality as conservative politicians would have us believe. But the nature of the moral responsibility of the individual did change in a very essential fashion.

The ethics of obligation has shifted towards an ethics of feeling, where individual dignity and empathy have gained the highest priority. The *good life* is now privatized in the sense that each individual can interpret it as he or she sees fit. The other side of the morality coin—evil—similarly lost the institutional and

ideological embedding that had long been taken for granted. Once the good life was liberated as it were, there were no longer any decisive terms for rejecting a *bad* interpretation. The only terms that were left were an aversion to cruelty, a rejection of humiliation, a hatred of suffering. The civil marches against senseless violence are an expression of this situation. People share their distaste for clear forms of cruelty.

The shift in morality from an ethics of obligation to an ethics of feeling presents its *piece de résistance* in the prohibitions codified in penal law. In a sense, the criminal justice system is the last solid normative stronghold in an otherwise liberated world. The behaviour stipulated in the Code of Penal Law provides solid groundwork for the postmodern morality, which can then only be negotiated to a very limited extent. Things run their course in penal law. Moral relativism comes up against its limits in the acts the state, in this case Parliament, makes punishable by law. This situation shapes the present-day punishment climate and the enormous pressure on the criminal justice apparatus. This pressure has had two effects that can best be described as rationalizing and moralizing.

Criminal justice rationalizing is evident firstly from the businesslike approach to criminal proceedings. In Justice Department policy papers of the past decade, references are made to the criminal justice chain and an effort is made to connect its links as effectively as possible. The chain going from the initial charges filed with the police to the investigation, prosecution and punishment of the offender is viewed as a businesslike process with the individual, i.e. the victim or potential victim, being the *customer* and the sanction administered to the offender the *product*. This outlook is in keeping with a more general tendency to carry out state tasks in a businesslike fashion. The criminal justice chain does not essentially differ in its approach from any other business process.

In itself, a great deal can be said for improving the efficiency of the criminal justice system this way. It responds to the criticism expressed since the 1980s of the slow and imperfect way the Police and Justice Departments conduct their business. This businesslike approach represents an effort to do whatever business is being done in as effective a way as possible. This attitude can play a role in criminal proceedings and perhaps even in sentencing. The enormous pressure on the criminal justice apparatus, what with the public looking over its shoulder, and the increasing visibility of the victim might well have contributed to a more punitive climate.[11]

This drive for efficiency is not however enough to guarantee a credible approach to the underlying safety issue. A second tendency has also emerged in connection with the safety issue that I refer to as moralizing. Inside as well as outside the

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[11] There has for example been a steady rise in the number of sanctions as percentage of the number of settlements from 34% in 1960 to 75% in 1999. The number of long prison sentences almost tripled during the same period, especially from 1980 to 1995. After that there was once again a sharp rise in the number of short prison sentences, and the number of task sentences also continued to rise so that they did not replace the short prison sentences (see Van Tulder 2001: pp. 234 ff.).

criminal justice system, forms have developed in the past twenty years that go further than businesslike penal law.[12] In the safety utopia, safety is not primarily a management problem, it is mainly a normative one. The administration of criminal justice is not so much the goal as an instrument, be it a limited one, for contributing to society's normative design. Against this background, any number of variants or alternatives for offender-focused criminal justice have developed.[13] Community service as punishment, victim aid and mediation are various examples of how the classical scheme of offence, guilt and the infliction of suffering has been abandoned.

Task punishments (community work), initially called alternative sanctions, are intended to make the punishment more meaningful to the offender, the victim and the community.[14] The offender performs services to reduce the damage to the victim or the community. In addition to these community service sentences, learning sentences can be given that are focused on improving the offender's social and moral skills. The judge or, in the case of smaller offences the public prosecutor, can order the offender to remunerate the damage to the victim. This option is accompanied by Police and Justice Department regulations for the proper treatment of victims. As a result of the need to focus as much as possible on the social capacities of the offender, there has generally been an enormous rise in the number of sanctions.

A relatively new development has been various forms of strict individual counseling called *intensive probation* in policy jargon, which is focused on ethnic minority juvenile delinquents and representatives of the hard core of criminal youngsters. To an increasing extent, efforts are also made to prevent criminal behaviour at an early stage outside the criminal justice system. Examples include the Halt settlements and the special variant for children under the age of twelve, the *Stop* response which is presented as a child-raising aid for the parents.

At victim aid agencies, there is similarly evidence of moralizing in connection with criminal justice interventions. In this case it is the victim rather than the offender who is the pretext for the reaction. The point of departure is that as representatives of the community, volunteers show crime victims their empathy. This trend is a direct confirmation of the prominent position occupied by victims in the safety utopia. A number of projects related to restorative mediation between offenders and victims go a step further. Confrontations are arranged between offenders and victims either before or after the trial and the purpose is to help them cope with their suffering and guilt and further a reconciliation. There are comparable projects with neighbourhood mediation, where trained volunteers make an effort independently of the Police and Justice Departments to mediate

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[12] A survey is presented in Boutellier, Kunneman et al. (2001) of moral practices related to criminal justice.

[13] These practices do not always present themselves as moral practices. Instead they formulate their goals in terms of educational and psychological assistance and counseling.

[14] For the development of task punishments, see the dissertation by Van Kalmthout (2001).

in neighbourhood conflicts. This makes it possible to prevent the situation from worsening (Peper, Spierings et al. 1999).

Although these efforts differ in their nature and institutional embedment, they are all examples of *community justice* or *restorative justice*.[15] They focus on combating escalation, addressing problems, developing or confirming norms, restoring damage to the victim or the community, and reintegrating the offenders. In a sense, they are diametrically opposed to the tendency towards a more businesslike criminal justice intervention because they view the offence as a normative problem of the community rather than a legal matter. It is striking that these efforts often emerge in the margins of the official penal law system and essentially function as a moral amendment to it.

In my opinion, the credible administration of criminal justice starts with the simultaneous acknowledgement of its urgent moral function and its limited instrumental capacities. Criminal justice interventions from the police registration to the last day of the prison sentence should be performed effectively, consistently and properly. Since they are selective by definition, the high quality of their performance is what gives them credibility. Enhancing their instrumental function would better be achieved by making a good selection of serious cases and improving the quality of the criminal proceeding than by infinitely expanding the criminal justice institutions and powers. In the development of variants or alternatives for the administration of criminal justice, restitution to the victim plays a crucial role.

### The crucial position of the victim

An anthology published to celebrate the 200th anniversary of the Dutch Ministry of Justice includes two illustrative, opposing positions as regards the role of the victim. Verrijn Stuart (1998: pp. 139 ff.) holds that the victim culture is responsible for people's exaggerated expectations when it comes to criminal justice. In addition to revenge, the victim wants personal restitution, which can never be provided by the court. This demand goes further than retribution. Retribution implies a certain restriction of the victim's desire for revenge: "The intimacy of revenge fades away behind the objectification of retribution".[16] But in a victim culture where everyone feels like a victim, far more is expected of criminal justice.

Verrijn Stuart holds that it is in this context that the preventive function of criminal justice has developed. Everyone feels like a potential victim and expects criminal justice to protect them in advance. She holds that the excessiveness entered the penal system with the introduction of general prevention as penal goal. As a

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[15] For an international survey, see Miers (2001) and for an effort to evaluate the effectiveness of restorative justice practices, see Miers, Maguire et al. (2001).

[16] She bases this notion on *De zin der vergelding* (The Purpose of Retribution), a lecture published in the 1920s by philosopher and criminal justice scholar Leo Polak, who notes that retribution implies a principle of economic exchange.

result of the central role of the victim, retribution is now in a mammoth alliance with general prevention (Verrijn Stuart 1998, p. 148). This statement does typify present-day criminal justice policy, but prevents us from getting a clear view of the reality of the crime problem this mammoth alliance is based on.

The Dutch novelist Gerrit Krol describes a similar radicalizing of the problem, but in the opposite direction. In *The Unbearable Lightness of Some Sentences* in the Justice Department anthology referred to above, he criticizes what he sees as overly mild sentencing. He often finds task punishments "laughable", certainly in comparison with the alternative of prison sentences. "I don't mind if whatever sentence the offender gets is laughable, as long as the offender himself cries his eyes out—with tears of remorse or regret" (p. 84). He does not feel the judge is right in thinking that a long sentence adds unnecessary evil to the evil already done, and feels the judge does not attach enough significance to the idea of getting even. The fact that punishment makes the offender suffer should compensate for the evil act committed by the offender. In another publication, this is why he feels the option of capital punishment should not be excluded.

Krol devotes attention to the legitimacy of the emotion linked by definition to the offence and the punishment. It is true that efforts should be made to rationalize the administration of criminal justice, but it should also be kept in mind that these efforts will never be totally successful. Every punishment evokes some emotion, particularly if the sentence is perceived as being either much too short or much too long. This is why Krol holds that there is no reason why the judge should not be influenced by the feelings of the victim. "The judge's capacity for empathy might well pertain to the offender but hopefully that is not all it pertains to. He should also be able to foresee the effect his verdict is going to have on the victim or the next of kin, referred to perhaps as the third parties but nonetheless the parties with the strongest need for justice to be done" (p. 88).

As the opposite extreme to Verrijn Stuart's aversion to criminal justice inspired by the emotions of the victim, there is Krol's opinion that in pronouncing a sentence, the judge should be open to being more influenced by the victim. Both views are indicative of the cultural trend I refer to earlier as the victimalization of morality (see Chapter 5). This makes criminal justice pay more attention to the actual victim and makes preventive policy pay more attention to the potential victim, in this case the public. Whether or not this is a desirable development, a dilemma on the very principle of the matter is looming on the horizon, i.e. that it is difficult to reconcile punishment itself with the postmodern rejection of victimhood.

The more criminal justice is led by the victim's emotions, the more complex the theoretical and emotional knot becomes that the contemporary criminal justice system is struggling to unravel. In order to grant retribution to the victims, suffering is inflicted on the offenders which in turn makes them victims themselves. If a great deal of influence is exerted on the criminal proceedings, the initial victim indirectly becomes an offender himself. This makes the emotional situation during the criminal proceedings extremely complex. The expectation that feeling of revenge will be predominant in the courtroom is speculative, and quite the opposite

can also be the case and forgiveness can be expected from the victim, a possibility that Verrijn Stuart rightly notes.

The more personal the administration of criminal justice becomes as regards the offender and victim alike, the more of a mediation procedure it becomes, or at any rate the more of a need there is for it to. Face to face with the victim and the offender, pure retribution fails to suffice and the desire emerges for a settlement more sensitive to the emotions that are felt. This is visible in my opinion in the recent developments related to restorative justice. Methods are pursued such as mediation, restorative group consultations and reconciliation where a central role is played by the individuality of the parties involved, which is not the same as legal subjectivity. In itself, this is a promising new development very much in keeping with the complex moral perception of contemporary times.

In so far as the criminal proceedings are concerned, their subjectification would not seem either desirable or even feasible. For a credible implementation of the criminal justice function, a certain distance would seem to be called for. In itself, the criminal justice function is not well served by the victim playing a larger role in the criminal proceedings themselves, for example by exercising the right to speak in the courtroom. There is also the fact that in the criminal justice system, retribution is by definition selective since many victims never even get to know who the offender was. So although the normative function of criminal justice is largely based on the central role of the victim in our culture, the whole system does not necessarily have to be arranged accordingly. Criminal proceedings are simply not the appropriate place for recovery, forgiveness or retribution.

It is possible though to create far more room for counseling, recovery and possibly mediation between the offender and the victim *outside* the criminal proceedings. Interaction between people who talk about whatever has taken place between them in an effort to get past it is something totally different than actual criminal proceedings. Emotional processes that play a role in mediation are of such a different nature that they have little or nothing to do with the demands and circumstances of the administration of criminal justice itself.[17] In principle, restorative justice is a better option for the emancipated victim if it is what he or she wants. Bazemore and Walgrave (1999) define restorative justice as "every act that is primarily designed to do right by restoring the damage caused by a crime" (quoted in Walgrave 2000). Before, while or after the offender is prosecuted and possibly sentenced, forms of restorative justice can be introduced, the outcome of which can be considered by the public prosecutor in his decision to prosecute.

This is not the proper place to go into detail on the multifarious steps that have been taken in the field of restorative justice abroad and hesitantly in the Netherlands as well. For the time being let it suffice to say a meaningful alternative for the victim—and the offender—is being developed in restorative justice. It provides space for a more subjectifying approach to the problems between the offender and

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[17] See Van Stokkom (2001).

the victim without burdening the criminal proceedings with the victim's emotions. It does mean though that side by side with criminal justice, a systematic supply of restorative justice needs to be created.[18] If the criminal justice system is to preserve its normative credibility, it should focus first and foremost on stipulating norms vis-à-vis the offender and the community.

## The end of a monopoly

The statement that every society gets the crime it deserves can be viewed as one of the clichés of criminology. It says everything and nothing at the same time. Emancipated postmodern culture is apparently accompanied by a serious safety issue. Many explanations have been suggested in criminology, all of which contain a grain of truth. We are familiar with the sociological discourses on the dichotomy, the materialism, the ethnic minority problems, the free way children are brought up nowadays, the open borders, the problems related to drugs and alcohol, the culture of masculinity and so forth. In the preventive approach to crime, at the moment the dominant idea is the life course theory in terms of risk and protection factors.

It is characteristic of the science of criminological explanations, which do bear a certain relevance to policy issues, that criminal behaviour is interpreted on the basis of factors outside the individual will. In so far as the individual subject plays a role in the explanations, he appears as a rational actor (the calculating citizen) who chooses the most obvious option on the basis of an internal analysis of the costs and benefits. Under some circumstances, this will be criminal behaviour. In these ways of practising criminology, the individual as the moral subject is essentially declared legally incompetent. In a sense, it is thus diametrically opposed to what is in principle the underlying assumption of criminal proceedings, that the offender or suspect acts of his own free will.

Although a criminal court judge will be willing to take the offender's personal circumstances into consideration, it is mainly the moral responsibility of the individual as the legal subject who is addressed: *You did it, so you wanted to do it!* This, I feel, is an important point of departure for a realistic look at criminal behaviour today. Perhaps criminal behaviour can be explained by any number of factors, but this does not help us understand its moral significance. Criminal behaviour can mainly be interpreted as a moral act. If we are to take the offender seriously as a person who is morally competent, we can only assume there were other choices open to him.

Offenders themselves also often disapprove of their own conduct. Perhaps they are hoping for some measure of understanding from other people, but they are surprised when their evil acts are simply explained away. In the explanation, their

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[18] See e.g. Walgrave (2000), who has worked out a similar alternative for juvenile sanction law in Belgium.

internal motivation is essentially repudiated. If their guilt is disclaimed, the punishment might seem unreasonable to them.[19] In essence, to the extent that their offences are determined, they have no say in what they did. But we want to have wanted our behaviour. Acknowledging the moral subject's own responsibility can be viewed as an important legacy of the humanist tradition. This is all the more the case now the ethics of obligation has faded away as a determining framework.

If there is no longer the ideological belief that man can be shaped, we should be aware of what might be an extreme consequence. Postmodern freedom to choose the good life for ourselves means the bad life is also viewed as a life project, be it a wrong one. An ambiguous morality makes crime something that is interpreted as an authentic moral act and rejected. Criminal behaviour is then not so much a deviation from the norm enforced from above as a denial of a fundamental principle of a humanist culture, the recognition of the other and of the other's freedom.

This does not mean we no longer take the offender's circumstances into consideration or are no longer interested in his story. On the contrary, each individual's own motivation for the conduct he selects has even become the core of the communication with him. We accept the offender as a moral subject, but have usually good grounds for rejecting his acts. Just as we know ourselves as moral subjects who make certain choices in dilemmas involving good and evil, we hold the other, in this case the criminal offender, responsible for his choices. And thus in his pure role, the criminal court judge points us towards a central assumption of contemporary culture, i.e. that we ourselves are responsible for our own life project.

The urgent role that is attributed at the moment to criminal justice acquires a deeper significance if we bear in mind the much more fundamental desire underlying it. The call for more criminal justice is inspired by the normative simplicity of criminal justice. After all, criminal justice represents the condemnation of behaviour that causes harm to other people or makes the norms of the community secondary to the fulfillment of one's own goals. Norms defined in criminal justice terms inform us of the vulnerability of moral positions, of other people's and our own moral ambivalence.

Yet in courtroom practice, this ideal typical function of criminal justice is frequently difficult to put into effect. What is more, there is a morally ambivalent conflict underlying many criminal acts, and it is often not so much a matter of confirming the norm as of finding or evaluating or re-evaluating the norm. Many instances of violence at school, at clubs or in families are not characterized by the clear relation between the offender and the victim that criminal proceedings assume exists. "One can conclude that civil society does not only need norms stiffened by punishments but also . . . an ethic of communication which can provide legitimacy for and confirm the validity of norms" (Mannozzi 2000).

This is why in a morally complex society, mediation between the various parties in a conflict that is relevant to the criminal justice system is often a better option.

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[19] There is some evidence that the offender will be more affected by the sanction if he has the feeling he has been fairly judged and sentenced (see e.g. Sherman 1993 and Tyler 1990).

In restorative justice, it can probably do more to fill the needs of injured parties for attention, protection, compensation and so forth than in classical criminal proceedings. What is more, the moral appeal to the offender is stronger is he is treated as an equal moral subject. The contrast between the prominent normative function of criminal justice and its limited instrumental possibilities needs to be supplemented by other forms of conflict management. The criminal court judge has good grounds for playing a normative role, but no longer has the sole right to it.

# CHAPTER 8

# DEMOCRATIC SAFETY POLICY

*There has been enormous safety policy growth in the past thirty years. In addition to a trend towards a more repressive state policy, there has been a normative regrouping of individuals, social organizations and local agencies.*

This book about safety pertains to a utopia. My aim is to separate the discourse on safety to some extent from the madness of the day. There are three motifs to the concept of utopia. First and foremost, there is the motif of discontent and desire, generated today by a vitalist risk culture. But there is also a warning in the concept of utopia, an allusion to the totalitarian thinking of utopian systems thinking. Lastly, there is the notion of unattainability; due to the permanent threat and the non-existence of any limits to safety, a situation of total safety is a mission impossible. In other words, the safety utopia is a situation we yearn for, a situation we should not desire, and a situation we are not going to be able to attain anyway.

In this chapter I concentrate on a few of the consequences of the safety utopia as regards safety policy. Obviously there is a close link between the two. At the beginning of the twenty-first century, the central position of the safety issue even turned safety into one of the main themes in the political arena. Stenson refers in this connection to "governing through crime" (2001, p. 22). The power to govern is increasingly judged by the approach to the safety issue. This is not automatically the case. Throughout the twentieth century, there was a buffer in most countries except the United States between "the [hidden] business of crime control and criminal justice" and the public conduct of politicians (Stenson 2001, p. 20).

Historically speaking, the ostensible ease with which politicians and the public now intervene in the criminal justice arena is hard to believe. The world of dignified legislators, criminal judges and barristers, well-respected public prosecutors, prudent politicians and cautious journalists has been left far behind, though it existed only yesterday. In a mere three decades, a crime complex has emerged from a cultural climate that favoured quite the opposite. Around 1970, there seemed to be more of a likelihood of falling crime rates and the end of criminal justice than the hectic situation now surrounding crime and punishment.

In an effort to assess the political consequences of the safety utopia, I consult the work of David Garland and describe the recent history of the contemporary crime complex. It is clear from this description of history what consequences the safety utopia has had for society. I address the hybrid nature of present-day safety policy and close by propagating a democratic safety policy that would deal with the

safety issue as seriously as possible, but still opt for an inclusive approach.[1] It would focus on restoring damage that has been done and compensating suffering that has been inflicted.[2] It would pursue a just, inclusive treatment of offenders and aim to reinforce social norms and restore or if necessary create a sense of right and wrong.


## An unexpected development

The crisis mood when it comes to enforcing penal law is generated by the high crime rates and growing order problem as well as by the growing awareness that the system is limited in its capacity to guarantee safety. In Chapter 6 I describe how a greater demand now coincides with reduced importance. This paradox is crucial to a proper understanding of today's safety policy. Garland (2001, p. XI) observes two new strategies in this connection, a repressive law and order policy and more preventive steps. Perhaps a short summary of Garland's analysis is called for here.

From the start, safeguarding law and order played a key role in the growing sovereign power of the nation state. In the late eighteenth and early nineteenth century, a policing power emerged to serve the central government. Civil efforts diminished, and crime and punishment became a state matter (2001, p. 32). Throughout the modernization of the state, crime control was increasingly steered by differentiation as to offenders and offences, the provision of statistical information,[3] bureaucratization and professionalization. Modernization was viewed as extremely effective, and it probably was in this context, as was witnessed by a fall in crime rates. The administration of criminal justice was increasingly dominated by the notion of rehabilitation and less and less by the idea of retribution. In fact prisons were viewed as being counter-productive (2001, p. 34).

Garland speaks of penal—welfare thinking as to combating crime and maintaining law and order with its roots in the nineteenth century and its peak in the 1950s and 1960s. In his view, two axioms play a central role, the belief that social reform and prosperity would reduce crime, and the responsibility of the state for the punishment and care of offenders. Crime refers to reform and repression, care and control, well-being and punishment. Punitive sentiments were suppressed and criminology focused on correcting deprivation was dominant. The protection of children, social case work, forensic psychiatry and psychiatric treatment were all individual approaches based on what were assumed to be individual dispositions.

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[1] In Great Britain the term community safety is now used in this connection. A theoretical debate on this trend has developed there that has yet to develop in the Netherlands (see e.g. Hughes, McLaughlin et al. 2002).

[2] This aim is not confined to crime-related damage and suffering that are more or less coincidentally settled in court. Other agencies and legal instruments also play a role in mediating conflicts, providing victim relief and combating undesirable behaviour (see for a more detailed argumentation Hughes, McLaughlin et al. 2000).

[3] Criminal statistics played a pioneering role in the development of the statistical sciences and the official provision of data.

The criminology climate of the 1970s turned away from this penal—welfare thinking. It was largely shaped by a movement to promote the rights of prisoners, reduce imprisonment altogether, and limit the power of the state. In the end though, this reform movement was counter-productive (2001, p. 53). Garland speaks of a kind of earthquake. The century old ideal of correction and rehabilitation was refuted. Various actors with strongly differing backgrounds and visions were active in the process. Foucault (1975) and Ignatieff (1978) criticize rehabilitation thinking for example because they feel this kind of *pressing into conformity* is typical of a disciplining social state.

In the United States, a report called *Struggle for Justice* (1971) was highly influential. It was written by the American Friends Service Committee, a support group for prisoners that felt pure retribution was preferable to therapeutic treatment. *Doing Justice* by Von Hirsch (1976), an advisory report on detention, granted a certain extent of authority to this line of reasoning. Von Hirsch felt the enormous power of therapists in the American criminal justice system was responsible for the lawlessness and selective justice there. Martinson (1974) published his famous article *What Works?* in *The Public Interest*. On the basis of 231 evaluation studies, he concluded that "nothing works".

The idea that rehabilitation leads to unjust and ineffective punishing more or less became common knowledge, certainly in the United States. This created an ideological vacuum, and within it new discourses appeared in support of the doctrine of retaliation such as Wilson (1983). If nothing worked anyway,[4] the system might be better off concentrating on its hard effects such as retribution, deterrence and harm reduction. Rising crime rates only served to make the call for an effective response mushroom. The fact that a couple of academics could make a century old tradition collapse like a house of cards (Garland compares it to the stock exchange crashing) has to do with three coinciding shortcomings of penal—welfare thinking: its perversity (therapeutic treatment is wrong), its futility (it won't help anyway), and the danger it entails (spare the rod and spoil the child).

Modern-day crime control crumbled because it was no longer in keeping with the new lifestyles and the accompanying ideas on possibilities for improvement. Slowly but surely, it was no longer just the belief in rehabilitation that was a topic of debate, but also the much more basic faith in the state's capacity to keep crime under control and promote prosperity. The change in people's mind set on crime unfolded against the background of what British theoreticians followed Gidden's example in calling the late modern era and the post-welfare state. They were the breeding grounds for Thatcher's conservative government in the United Kingdom and Reagan's in the United States.[5]

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[4] In 1979 Martinson did revise what Garland felt was his biased summary of the literature, but no one paid much attention.

[5] This seems like a good moment to note once again that in his historical account, Garland confines himself to the United States and Great Britain. In so far as there was a movement of this kind in the Netherlands, it was at a later point in time, to a lesser degree, and much less reflective.

Western societies have changed dramatically in the past thirty years in a social, cultural and demographic sense. Large metropolises changed as to the ethnic composition of their population, family life became more democratic, and mass media emerged to play a central role. Since opportunities increased and social and self-control decreased, the changes exerted considerable influence on crime rates. In the political discourse, an effete welfarist criminology struggled against the rise of a conservative interpretation of problems as being due to a lack of moral discipline and a need for control (2001, p. 1000). Instead of Durkheimian solidarity, Hobbesian political philosophy now shaped the political line on crime and order.

Many academics got bogged down in ideas on abolitionism, decriminalization and de-institutionalization, and in Garland's view, consequently lost much of their influence.[6] This was a period when academic criminology was simply no longer very significant because it failed to bear much relevance to the altered meaning of the crime problem. In a criminological sense, times were tough in the 1970s, crime rates were high, belief in interventions was limited, and faith in the capacities of the state had been undermined. It was nonetheless inconceivable that the state would withdraw to the field of combating crime.

## Contradictions

According to Garland (pp. 110 ff.), the state reacted however in a schizoid fashion. It became stronger in the field of crime and punishment, but at the same time allowed others to take more and more steps. In an effort to increase its own strength, it clung to the notion that crime control was a state matter. This strategy complies with the political logic that a government should continue to believe in its own institutions.[7] There is even a political tendency to get lost in exaggerated rhetoric and a poorly planned expansion of powers. Garland speaks in this connection of "acting out" (2001, p. 131 ff.). As examples, he cites the law regulating the supervision of sex offenders, the California *three strikes and you are out* rule, prisons for juveniles, the registration of paedophiles, the zero tolerance policy of various police forces and so forth.[8]

Today's crime complex centres around everyday offences and the ever present sense of being unsafe thus irrevocably leads to a harder political line. It satisfies

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[6] As a result of the radical criticism of the criminal justice system that was so strong in the Netherlands in the 1970s, the Dutch practice of theoretical criminology lost quite a bit of ground (see my Closing Comments).

[7] Otherwise, the government will only be forced to do so. It is striking that Prime Minister Kok was reproached by the media for publicly stating "If anyone has a better answer, let him speak up" in 1998 with reference to vandalism, theft and violence. He took back this statement on a later occasion, and said, "What I meant was not in any way that we were not capable of coping with the situation, that we were at our wits' end" (quoted in Van den Brink 2001, p. 29).

[8] There are comparable examples in the Netherlands, such as the emergency measures pertaining to cocaine couriers in early 2002.

the general desire for safe freedom and restores our faith in politics, at least one hopes so. The New York zero tolerance policy would seem to be a great success story, even though comparable falls in crime rates are also evident in cities and states with less draconic approaches. A hard political policy has an instrumental logic and it is populist and politicized, and one of the reasons why, according to Garland, is because victims are given a representative status (2001, p. 143).

At the same time the system adjusts itself, for example by setting priorities, making other agencies responsible, modifying its aims and developing a practical policy-oriented criminology.[9] It is a strategy with space for other actors. It is more focused on a preventive and pro-active use of means. New preventive strategies and modes of cooperation develop here, and local groups related to safety and conflict management strategies. Garland refers to a strategy of preventive partnerships.

So the changes do not all go in one and the same direction. The past few decades have witnessed the largest prison construction programme since the Victorian age (2001, p. 168). A more unique development though has been the emergence of a third sector side by side with the Police and Justice Departments in the safety world consisting of "crime prevention organizations, public-private partnerships, community policing arrangements, and multi-agency working practices (. . . ) local authority panels, working groups, multi-agency forums, and action committees" (2001, p. 170). This new sector occupies a position between the state and the community and mediates between criminal justice agencies and the actions of individuals, local communities and companies.

Crime control has become the responsibility of multifarious social and economic actors who focus on prevention, the reduction of damage and suffering, and risk management rather than on retribution, deterrence and correction (2001, p. 171). Community safety is becoming a major consideration, and law enforcement is more an instrument than a goal in itself. Reducing fear, damage, suffering and the various expenses accompanying them is now the primary consideration and plays a larger role than the purity of the constitutional state or aspects having to do with privacy and the protection of individual rights. This leads to a situation where the criminal justice system is greater than ever, but nonetheless occupies an increasingly restricted position vis-à-vis other agencies and organizations (2001, p. 173). The state does become more punitive, but it increasingly acknowledges its own inadequacy.[10]

Garland notes that the crime and safety sector is structurally rearranging itself in such a way as to include new elements (the victim, prevention, restorative justice),

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[9] Ever since the mid-1980s in the Netherlands, a mixture of insights on social control, opportunity and the rational choices of offenders has produced a successful policy-oriented criminology. At the moment, there is more of an emphasis on the individual life course model because it describes how a cumulation of risk factors, perhaps compensated by protective factors, can lead to undesirable or in this case criminal behaviour.

[10] This observation is in keeping with modern ideas on governance, which mainly focus on influencing social and societal interactions in such a way that political policy and social self-organization become complementary (Kooiman 1993).

the power balances are revised (between punishment and well-being, state and commercial facilities, means and ends, the legal protection of offenders and of the public), and the change in relations between the field and the environment (the political process, public opinion, and the civil society). In this new crime culture, various forms coincide. There is for example a certain revival of the rehabilitation ideal in the What Works Movement. References are made to a preference for the reintegration rather than the rehabilitation of ex-convicts. The programmes are focused on reducing risks and preventing new offences and not on the well-being of the offender as such. The interests of society are the main priority.

Other changes of this kind have also taken place. Probation and after-care services for discharged prisoners have been completely refined, and are no longer performed by a welfare institute but by a punishment implementation organization.[11] Without this change, the Dutch probation and after-care agencies probably would not have survived the new crime complex either (see Heinrich 1995). The prison was also rediscovered as a way to exclude people from society. And via the public prosecutor's guidelines and policy decrees, criminal proceedings have become more rational and impersonal. This is true of many of the criminal justice developments cited in Chapter 6. Efficiency and effectiveness are key words in the new crime policy, but Garland notes that oddly enough, it does not seem to matter what it costs (2001, p. 191).

In evaluating, Garland observes that the new crime culture is more focused on exclusion than on solidarity, more on social control than on social facilities, more on the private freedom of the market than on the public freedoms of universal citizenship. This is why he speaks of a culture of control that is *not* enforced upon the market, which generates the most risks. But Garland also notes that there is no evidence of any lack of freedom. Individual freedoms are supported by a new structure of control and exclusion. He sees it as the combined effort of neoliberal and neoconservative politics, market discipline and moral discipline: "Wherever the liberating dynamics of late modernity emphasizes freedom, openness, mobility and tolerance, the reactionary culture of the late twentieth century emphasizes control, closure, constraint and condemnation" (p. 198).

Unlike social control based on solidarity, with individuals giving up something of their personal freedom for the good of the collective, the present-day unprecedented freedom of so many people is accompanied by the vigilant control and possible exclusions of others. Yet the state does not seem to be capable of adequately guaranteeing safety. An effective government can only be based on central steering and coercion to a limited extent. Instead, it should support the steering capacities of civil society's organizations together with the local forces and knowledge available there. Garland closes *Culture of Control* as follows: "We discover—and it is not too late yet—that this also holds true for crime control" (2001, p. 205).

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[11] Schuyt and Kommer (1998) have researched and described this development in the Netherlands.

## The state, the market and the community

Contrary to the expectations, safety policy has developed in thirty years into an internally contradictory field, where in addition to the Police and Justice Departments, there is a third sector ranging from private security companies to active individual citizens. Garland does not make any explicit statement on the desirable or inevitable consequences of this situation. I think his general description of the current situation as a culture of control is too sweeping a statement to be productive. It fails to adequately consider the real problems it is based on and the potential that the safety utopia implies.[12]

In Chapter 7 I discuss the position criminal justice could occupy in the present context. In my opinion, criminal justice derives its credibility from its explicit normative position. It does so however against the background of a declining instrumental function. More and more parties play a role collectively under the common denominator of safety policy. One should bear in mind that the government is transferring more and more tasks anyway to either the market or the regions and cities. But as regards the safety issue, there is still very clearly also a national, constitutional state interest. In addition to a certain guarantee of safety, there is the general interest of legal equality and legal protection. Together they shape the faith of the citizens in the nation state.

This national interest does not coexist easily with tendencies towards privatization and decentralization. More than in other policy fields, this is why the state will play a driving and steering role here, without confining itself to the use of criminal justice instruments. This has complex consequences for the relation between central and local authorities. The national government can not totally leave safety policy to the local level as was the case with youth and welfare policy.[13] The position of the state should be carefully stipulated vis-à-vis the two other forces in the safety field, the market and the community.

As regards the market, it should be noted that it does play a growing role in the safety utopia. In many Western countries, private security is already overshadowing the regular police.[14] There is not much of an objection to this in itself, but there are at least two reasons why the state should continue to hold a central position. Firstly, the private security industry should be regulated and monitored to prevent an undesirable concentration of power. And secondly, security ought to be a democratic good that does not lead to undesirable processes of inequality (gated communities) and exclusion (e.g. keeping certain undesirables out of shopping malls).

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[12] Hughes (1998) notes that many authors who write about the risk and control culture erroneously work from a dystopic vision. I share his view.

[13] I won't be drawing any conclusion here as to whether or not this decentralization can be viewed as having been successful.

[14] See the special issue of the *European Journal on Criminal Policy and Research* on private security. In the Netherlands the ratio between private and public safety personnel is more than one to two. There are 132 private security personnel and 256 police officers to every 100,000 residents (De Waard 1999, p. 156).

The other force—the community—plays a large role in a democratic safety policy, but for reasons involving legal protection, legal equality and public trust, it can not function without the state providing guidelines. Although the state can stimulate and facilitate the people's self-reliance, at decisive and urgent moments, it should be able to act effectively. It is also true that an excessive yearning for civic courage and a sense of public responsibility entails certain risks. An all too automatic normative consensus on crime and criminals can have the opposite effect. With all the positive force it can evoke, the community also has the undesirable potential of we-them contrasts where offenders and *the others* are concerned.[15]

Though the market and the community should each play an important role in safety policy, it is too precarious a field to leave to these free forces. The state should not hesitate to set normative guidelines so that a democratic safety policy can be carried out at the local level. In addition to adequate law enforcement, it will have to actively implement a social policy designed in a normative sense to prevent crime and bothersome or anti-social conduct. The criminal justice system fulfills an important normative function and for this reason alone, it should be faithfully maintained. It is wise to somewhat expand its function as regards the size of the apparatus and the competence of the Police and Justice Departments so that it can continue to fulfill this normative function.

We should also bear in mind though that to safeguard the legal protection of the citizens and in connection with other constitutional considerations, this expansion of the repressive apparatus can only be limited. As an alternative to these considerations, there is another option, i.e. a drastic criminal justice approach to street crime. This is what authors like Joshua Livestro (2002), citing the success in New York, would like to see happen.[16] The core of his thinking is that, as in New York, with a different Police and Justice Department effort, neighbourhoods can be won back from crime one street after the other, one house after the other. The Police and Justice Departments are still too influenced by the *see no evil, hear no evil, speak no evil* ideas of the 1970s. Livestro alludes to the declining effectiveness of the criminal justice system and concludes that the police should investigate more, the public prosecutor should prosecute more, and the judge should punish more (and forget about task punishments).

This is one voice among many that can be expected to multiply in the future. It overshadows the complexity of contemporary society, where crime is the visible top of the iceberg. The unimaginative call for more control brings a state power to bear that will irrevocably lead to the exclusion of large groups of the population and

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[15] Hughes (1998) draws a distinction between forms of authoritarian communitarianism, as are evident in several Asian countries, and the kind of communitarianism that is civic and inclusive. I don't think the first form is very probable in the Netherlands, but it is not totally unfeasible. In the context of a local, community-focused safety policy, the national government should be the guardian of the constitutional statehood.

[16] Joshua Livestro is the Chairman of the Edmund Burke Foundation, a platform for the formulation of a conservative programme of ideas. Comparable ideas can be found in the Netherlands in what is referred to as the *livability movement*.

a drastic expansion of the criminal justice system, which is not equal to the task of coping with it. This is the dilemma the state will be faced with in the future: either law and order by repression and the exclusion of many of the people or a social policy that dares to be normative. It is only possible to withstand the temptation of the former by consistently choosing the latter.

In summarizing, the safety issue has the potential to give local society new moral impulses. Including the right to safety in the Constitution, as some authors propose, would not be wise. Safety can never be completely guaranteed and this kind of stipulation can conflict with other classical rights to freedom.[17] Moreover, safety should not be embedded as an exclusive assignment of the state. Reasoning from the safety issue, a radical social spirit is called for that activates the community, individual citizens and social institutions alike, allows the market to play a role, albeit a limited one, and gives the state an opportunity to occupy a steering and normative positive that does not confine itself to criminal justice interventions.

## Local safety policy

The call for safe freedom for the people puts a great deal of pressure on the local government. A comprehensive preventive policy is called for that more emphatically connects social policy to the safety issue. The social sector—teachers, social workers, youth care and community workers—are aware that the demand for safety is ever more relevant to their own work, if only because they themselves are bothered by the ramifications. The Police and Justice Departments also define themselves more and more in terms of social goals that are more comprehensive than just the enforcement of law and order and criminal justice. There has recently been growing cooperation between the two worlds, for example when the Police and Justice Departments and youth care workers consult each other about specific cases.[18]

An example of the innovations in the social sector is the *Communities that Care* (CtC) prevention strategy. Criminologists David Hawkins and Richard Catalano developed this steering programme for social policy in the 1980s on the basis of extremely extensive meta-evaluations of the criminology literature (Hawkins 1999). They formulated nineteen *hard* risk factors that play a role in the development of such problems as violence, excessive drug use, and antisocial behaviour. Working from this analysis, they developed a strategic programme for community development that involves all the relevant agencies and key individuals.

Based on research including studies conducted among youngsters, a CtC community risk profile is formulated. So are the strong points of the community (the

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[17] For a more fundamental treatment of the relation between the constitutional state and safety policy, see Piret (2000).
[18] See the policy paper *Vasthoudend en effectief* (Pesistent and Effective, 2002) on juvenile crime, which propagates the national implementation of youth offender teams.

neighbourhood, the district, the municipality or whatever unit is deemed desirable). This analysis makes it possible to choose social policy spearheads. The choice is made by a prevention team. In addressing the spearheads, a Manual is used that describes methods that have proved to be effective.[19] CtC has been implemented virtually throughout the state of Pennsylvania to serve as guideline for a social policy collectively supported by various agencies and institutions.[20]

*Justice in the Neighbourhood* is an example of an effort to work from the criminal justice system to establish cooperation. The first small-scale Justice in the Neighbourhood offices were opened a few years ago to establish a direct link between the Justice Department and neighbourhood social programmes. If a gang of youths is terrorizing a neighbourhood, the leaders can be picked up and prosecuted and efforts can be made in conjunction with youth care workers, schools and community centres to take supplementary measures to keep the other youths under control (Van Erpecum 2000).

At the moment, small-scale Justice Department services are either in place or will be soon at a few dozen locations. In addition to the Office of the Public Prosecutor, the Child Protection Office, Probation Department and Victim Aid Agency are preferably also active. In most cases, they work in conjunction with the police and other social institutions. The scale on which Justice in the Neighbourhood offices work can vary from a neighbourhood or district to an entire city, and the Office of the Public Prosecutor refers to them as front offices. With this development, the Justice Department is following the example of the Police Department, which opted for a neighbourhood approach much earlier (*Justitie op maat aanwezig*, Made-to-order Justice in Evidence, 1999).

Communities that Care and Justice in the Neighbourhood are examples of the growing convergence between the social sector and criminal justice system (see also Boutellier 2001). The Communities that Care project entails a strategy to focus social work more on preventing crime and bothersome or antisocial conduct. In the Justice in the Neighbourhood project an effort is made to link the Justice Department with local plans to address the safety issue. It is important to bear in mind that a greater involvement on the part of other social institutions essentially means they will come to hold more of a normative position than they often do today. The safety goal implies more of an orientation towards behaviour that should be prevented because people—and the criminal justice system—disapprove of it.

Of course there are numerous other projects and possibilities at various levels. Firstly there is the level of individual citizens and their primary spheres of life. The state can enlarge their resilience by reinforcing the social fabric. This means

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[19] In the Netherlands, a manual of this kind was produced by the Netherlands Institute for Care and Well-being (NIZW) called *Veelbelovend en effectief* (Promising and Effective, NIZW 2001).
[20] A number of pilot projects have been launched in the Netherlands and will be further expanded. In Great Britain, the programme was taken over by the Rowntree Foundation.

facilitating volunteer work,[21] clubs and associations, advising parents on the up-bringing of their children and so forth. In general, people's willingness to address the safety issue is of crucial importance. It should be noted that steps have been taken by the Moroccan and Antillean communities,[22] and the silent marches and other civic projects imply an element of normative reflection. In the end, civil society should be borne by individual citizens.

At the second level, there are educational, and youth and community work agencies. They are increasingly aware of their teaching role in conveying normative points of departure for daily interaction. The strengthening of the normative consciousness of these institutions can not be forced upon them, but it can be enabled by the authorities. It would be desirable for the state to stimulate and facilitate the normative function of these institutions. Developments in the framework of the comprehensive school, cooperation between the school system and youth care agencies, and conflict mediation in neighbourhoods and at schools are new ways that preventive contributions can be made to improving safety. The world of trade and industry can be requested to make a contribution to the integration of minorities and the sponsoring of social projects.

At the third level, there are any number of possibilities in the connection between the Police and Justice Departments and the world of social policy and youth care. Projects like Justice in the Neighbourhood and Communities that Care are in this category. They focus on a contextual approach to problems from the social work as well as the Justice Department perspective. Cooperation between the police and community work can be reinforced, and connections can also be created in the cooperation between prisons, probation services and mental health care and social work institutions. It is at this level that alternative modes of settlement in the field of mediation and restorative justice also play a role.

At the fourth level, penal law plays a crucial role in the reaction to serious criminal behaviour. In the criminal justice response, the sense of right and wrong is confirmed but the hope of improvement is kept alive. The reintegration of ex-convicts in an effort to prevent repeat offences can be promoted in penitentiary programmes and via task punishments. In a preventive sense, efforts are needed on behalf of individual youths whose problems are accumulating and who will be part of the future hard core. Interventions for this group are planned on the basis of early indicators cited by teachers or youth workers. Special training programmes and intensive family counseling might be required.

Various of the above-mentioned agencies are not the most appropriate ones to address society's safety issue. They do nonetheless often experience the negative effects of crime and the bothersome or antisocial conduct that has often come to characterize city life. These institutions should realize that if they devote more attention to safety issues now, it might open up new possibilities for their *real*

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[21] The United Nations Year of Volunteers was 2001.

[22] Recorded in the papers drawn up by the Azzougarh Commission (1998) and the Veeris Commission (2001).

work in the future. If schools can create a safer climate on their own premises, it ultimately benefits the pupils' scholastic performance. A democratic safety policy presumes wide societal commitment.


## The principle of hope

Today's utopian fantasy is all about safety. This was the case before 11 September 2001, and it has been even more so ever since. The desire for a convergence of vitality and safety is stronger than ever, and presents itself in a very specific form. The ingredients for the safety utopia are the realistic threats in the risk society, the discontent generated by moral fragmentation, and a nation state that derives much of its legitimacy from its guarantee of safety. They combine to make an explosive mixture, which will presumably play a crucial role in social relations in the West for decades to come.

It is in the crime problem that the safety utopia is most concretely embedded. Garland's crime complex is a whole set of emotions, attitudes and concepts on danger and protection, vitality and safety. Crime—viewed as all the various violations of the norms defined by the Code of Penal Law—has become an everyday problem. The open society with its enormous diversity and complex social processes generates a high level of these violations. The risks technological advancement entails and the crumbling of traditional social contexts are now accompanied by high social safety risks.

We have come to take it for granted that we and everything we own are surrounded by precautionary measures such as padlocks on the doors and bolts on the windows, surveillance cameras and armed guards. Public buildings are no longer freely accessible, we are searched at soccer stadiums and airports, and many of us do not venture out on the street alone at night and jump out of our skins when the bell unexpectedly rings. It has become the most normal thing in the world for the media to devote a great deal of air time and newspaper space to matters concerning the Police and Justice Departments. The crime problem has proved to be a perfect screen on which to project our moral discontent. It is always there, the victims are concrete and even if they are rarely actually found, the responsible parties, the offenders, can be localized.

The crime problem is the tip of the vitalism iceberg affecting all our spheres of life. The neoliberal market economy requires risk taking and working overtime, the youth culture is dominated by the idea of living intensely—using drugs, owning guns, and going to wild parties. The fragmented morality means individuals with all their dilemmas and insecurities need an *identity policy*. In this fragmented culture, criminal behaviour is no longer a deviance, it is now an option many of us find very tempting: fast money, immediate need gratification, thrill seeking, a perverted enjoyment of power. You have to be a pretty strong person or have had a pretty good upbringing to be able to withstand the temptations of today's culture.

Once identity development has been liberated—we can be whatever we want to be—the violation of norms becomes just one of the numerous options available to us. In a cultural sense, free of disciplining traditions, essentially everyone can be a *criminal*. In a vitalist culture, the criminal tests the borders of the admissible. In this context, the response to criminal behaviour is also an identity policy of sorts. The tendency to punish it is a way of guarding borders, and that means guarding our own as well as other people's borders. We like to criticize other people for precisely the kind of behaviour we sometimes exhibit ourselves. We disparage someone who ignores a red traffic light because we are so familiar with the temptation to do so ourselves, and sometimes even give in to it. The same holds true of fraud, slander, sexual harassment and perhaps even assault or manslaughter.

The criminal option is never far away, though many people do not choose it, or only now and then or just in their imagination. The proof of the pudding is in the actual criminal act. In an open and liberal culture, the most important moral objection to criminal acts is voiced by the prospective victim. We tend to think twice before victimizing anyone. The leading cultural position of the victim is the main factor that restrains us, and this is also true in a psychological sense.[23] The victim and the offender are the extreme figures in a vitalist risk culture. Both of them have their tempting and their repulsive sides. And much of our present-day debate is focused on who to position within these characters and why and when.

On the basis of codified penal law, the criminal court judge now plays a central role in this context. To a growing extent, he is the arbitrator who decides on matters of good and evil. Although he can barely meet with the demand and there is a limit to what he can do, his role fits in perfectly with contemporary society. On behalf of society with its unprecedented diversity, he treats the offender as a person bearing full moral responsibility (unless he is of unsound mind) and holds him accountable. He sets the norm and people increasingly turn to him. And via the media the public, with a special role for politicians, is looking over his shoulder. The people carefully follow his every move as a normative director and he often fails to satisfy them. They want more, better or stricter law enforcement, but if they take a closer look at the individuals he is judging, they might tend to be a bit milder.

Nowadays the criminal proceedings Durkheim could still describe as a celebration of morality exhibit more similarities to a tragedy. The procedure presented in the courtroom has a great normative meaning, but often barely suffices to cope with the discontent and desires of the safety utopia. In a somewhat populist way, one might say the citizen wants to feel safe on the street, in the swimming pool or at the soccer stadium. He wants to send his children to a safe school and he does not want to have to worry every time they go out. In the last quarter of the twentieth century, these trivial essentials of citizenship could no longer be taken

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[23] Moral psychologist Hoffman cites the capacity to empathize with the other as representing the highest stage. And in comparable approaches by Gilligan and Tronto, the capacity for care is viewed as foundation for a (female) ethic of care (Sevenhuijsen 1996).

for granted as they could up till then. People are looking to the criminal justice system to fill this need, but the system always has its quantitative, qualitative and dogmatic shortcomings.

Even though individuals do demand maximum freedom and enjoy designing their own lives, there is still a clear call for restraint if this freedom is at their own expense or at the expense of whoever else is involved. The attention focused on the safety issue represents a demand for safe freedom. This paradoxical demand simultaneously leads to an aversion to unwanted interference and a call for government intervention; it is characteristic of the whole safety utopia. The contradictory desires of individuals lead to enormous dilemmas in the formulation of government policy: optimal safety and at the same time maximum freedom. In principle, there are two state policy options in the framework of the safety utopia.

The government could choose the repression option, which would mean expanding the powers and capacity of the Police and Justice Departments. This option is tempting, and fits in with a populist solution to the tensions in society that the safety utopia is founded on. It can however also lead to a pragmatic morality that should be locally promoted and grounded again and again in children's upbringing and education, and in social work and penal law. This kind of pragmatic morality should meet with at least two requirements. It should be strong enough to effectuate a certain extent of social cohesion, and it should guarantee the postmodern freedom to choose individual philosophies and attitudes to life.

Contemporary culture suffers from a desire for the safety utopia. This diagnosis makes it possible to focus on the relation between vitality, safety and criminal justice. I think that in itself it is a good thing that the utopian refusal to resign oneself to undesirable situations plays a role. The utopian imagination represents an important human faculty—philosopher Bloch's *Prinzip Hoffnung*. The hope of another better life is an important existential driving force. The utopian imagination can be unmistakably viewed as an important force behind developing modernity. It is in fact the absence of big stories at the beginning of the twenty-first century that seems to be reinforcing the utopian desire.

The fact that this utopian desire is dominated by the safety issue does not necessarily mean it is unattractive. The safety utopia does not have to assume the form of a culture of control where a strong state promotes the interests of the well-to-do in the name of safety. It implies a definite call for moral reflection, for a renewed formation of local communities, a strengthening of the capacity for empathy, and a reconsideration of impassive market thinking. A lack of safety is a *democratic* problem that pertains to everyone and is linked to the conditions of a vitalist risk culture.

# CLOSING COMMENTS

*As intellectuals, criminologists can play a strategic role in safety policy. In doing so, they should more seriously consider the moral and political significance of the crime problem.*

Criminology is a risky branch of science. This is literally the case for criminologists who conduct research on organized crime. There is a locked safe in many a study nowadays for the more sensitive files. Criminology researchers are even sometimes brought to court by the other party's lawyers or need police protection. But the risk I am referring to is an intellectual one, the kind of criminological error that is so easy to make. Public views on crime are subject to change, and that is something it is hard for the criminologist to avoid. After all, the importance of crime and the response to it is enormous, perhaps more than ever.

To start with, criminal behaviour has high psychological stakes, and indifference is unbearable for everyone involved. This holds true of the immediate victims, and of the offenders, crime fighters, and bystanders, the public. The ramifications of a crime are often considerable, and emotions tend to get heated, especially if there are victims involved. Crime causes damage or suffering and affects people's peace of mind. Criminal behaviour challenges the belief in "a just world" (Lerner 1980). Crime is essentially inconceivable without emotions; the shock of the criminal event is part and parcel of the subject matter of criminology.

Yet the criminologist has to remain cool, calm and collected. Analyses without tears are what is expected from him. The public often erroneously confuses academic objectivity with indifference. It does not adequately understand the specific role of criminology as a discipline. But the criminologist himself also falls prey to this kind of confusion. He has a hard time thematizing the emotional meaning of crime. The emotional content of a criminal event is a factor that has barely been studied.[1] The emotional blindness of the criminologist, or better yet his limited eyesight, is accompanied by his limited interest in the cultural meaning of crime and its development.

There can be strong variations in this cultural meaning. Shoplifting was not the same in the 1930s as a comparable offence in 2001. Though it might be the same punishable act in a legal sense, the two events bear very little resemblance.

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[1] This is not the case with subjective safety, which has become an increasingly important criterion for policy-makers in the past decade.

The setting and main figures are different, and so is the sensitivity to the offence. Nowadays shoplifting is an everyday thing that only evokes very limited emotions. This has certain consequences as regards the reactions. Up until the 1950s, obsessive shoplifters or *kleptomaniacs* were often sentenced to treatment in a mental hospital, but by 2000 this measure was more or less reserved for violent offences, especially sexual ones, and the kleptomaniac was virtually extinct. Relatively new criminal offences such as nightlife violence[2] derive their meaning from the altered context.

The criminologist thus focuses on an emotional subject that is culturally extremely sensitive. The criminal offence and the sanction it can lead to are both lightweight in this sense. It is true that crime is firmly embedded in the legal definitions of the Code of Penal Law, but its meaning is still subject to change. Each new cultural trend changes views on criminal events, and criminology soon follows suit.[3] This is precisely what makes criminology such a risky branch of academic science.

In this book I have mainly tried to describe and understand crime and even more so the reactions to it on the basis of contemporary meanings. I have been guided in this respect by two interests. Firstly, I am interested in the moral meaning of crime and punishment. Criminality pertains to intuitions on good and evil, responsibilities and suffering, a sense of revenge and a sense of compassion. I feel this focus is justified because a criminal act explicitly distinguishes itself in one respect from all other forms of behaviour, i.e. as a violation of a norm that is—rightly or wrongly—objectified in penal law. In this sense, a criminal act is a very special moral event and its normative context is relevant.

My second interest is of a more political nature. It is above all else its moral significance that makes crime the subject of heated debate. Perhaps more than ever, the everyday criminal event is a hot item on the political agenda. In this book, I have also made an effort to examine the political consequences of the meanings of crime and punishment—quite apart from whatever might happen to be the fixation of the day. I hope to contribute this way to the more fundamental political and perhaps even strategic questions pertaining to the safety issue. In this sense the discourse presented here constitutes more of a diagnosis of contemporary culture than an analysis in terms of explanations and solutions to the problem of safety.

In these closing comments, I position this diagnosis in the debate on the development of criminology and the social role it could play. To this end, first I address in greater detail the political sensitivity of the discipline of criminology. Then

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[2] The term nightlife violence is used to refer to "violence perpetrated in entertainment centres or areas (i.e. areas with a high concentration of bars, cafes, discos, restaurants etc. where people go out)".

[3] In particular the ethnic factor in the crime figures bears witness to some rather surprising changes. In the 1990s a number of criminologists objected to research on this factor, only to later become specialists in it.

I say something about its range and the possibilities for making a contribution to safety policy. At the moment it is mainly trying to prove itself in a technical sense. Criminology should once again focus more on the political and social dilemmas that go along with the safety issue.

## Political sensitivity

Each criminal event has its own context and thus its own meaning and specific connotation in a certain cultural environment. Exactly the same holds true of the response to it. The *meaning* of an offence is not the same as a causal explanation for it. Meanings have to do with the emotional value vis-à-vis other offences and behaviour, and with the sense of justice evoked by an offence and its cultural embeddedness. What happened for example to *the kleptomaniac*? What changes in meaning has the *sex offender* undergone?[4]

Explanations are however sought in objectified factors leading to criminal events. It is true that the context plays a role in explanatory criminology, but only as a set of variables. The routine activity approach centres for example around the opportunity a situation provides for a crime (Felson and Cohen 1979). Crime is viewed as the effect of an opportunity structure and the choices the potential offender makes within it. The presence of desirable objects, the extent to which they are safeguarded, and the chance of the offender getting caught are the decisive elements in this approach.

In this way of practising criminology, crime is approached as a morally neutral affair. In the absence of inhibiting factors, offenders take gainful advantage of the opportunity. This does not say anything yet about the psychological connotation and cultural meaning of crime. They are important if we are to understand the underlying reasons for the action and reaction, and thus provide policy indications. They enable us to gain insight into how people describe or justify their behaviour. Purely reducing any behaviour—including criminal behaviour—to external causes diminishes the psychological and cultural reality of the crime problem.

The factors cited as explanatory often reveal more about the meaning attributed to crime in a certain period than the actual *truth* of criminal behaviour. It is striking that in the 1990s, when violence was on the rise, faith in the biological causes of violence grew as well. These causes, as Van Ruller (1999) observes, are after all the least subject to fluctuations in time.[5] And the other way round, in a period when unemployment rates were high and consequently constituted an explanatory factor for the theft of funds or goods, very little was done with research findings demonstrating this link. The study by Prof. Jongman et al. in Groningen in the 1980s is a good example of this.

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[4] Comparable inquiries are conducted on the development of clinical syndromes.
[5] Van Ruller's observation is refuted by Blokland (2001) because sociobiology incorporates social factors in its explanations.

In themselves, the results of the study in Groningen are convincing enough.[6] Six out of seven registered offenders live on state benefit, and the registered crime rates are twenty times as high among the unemployed as among the employed. The lower the social position of the offenders, the stricter the police are with them and the more of a chance there is of the public prosecutor making a court case out of it. Jongman explains the rising crime rates on the basis of the growing discrepancy between society's ideology of equality and the fact that it is impossible for many people to achieve any semblance of equality for themselves.[7] The study presents an overwhelming quantity of empirical data, making it virtually out of the question for the reader to doubt the truth of this statement.

Jongman's research programme nonetheless never had much political significance. He formulates his own explanation why in a small publication (Jongman 1989). In his view, the socio-economic patterns he observes are defeated by "the political madness of the moment". He feels that for reasons of political expediency, his inequality theses can never be declared *valid*. This is an allusion to a crucial problem in criminology, and perhaps in all explanatory social sciences. Jongman's *truth* does not fit in with the political possibilities or preferences at the time.[8] This observation can be disappointing for researchers, but is quite understandable from a policy point of view.

There is however a second reason for the limited relevance of the research by Jongman et al. It has to do, I feel, with the reductionist nature of his inequality thesis. Jongman is undoubtedly right when he points out the relation between class position and crime, but it is the rightness of someone who claims a tomato is red without saying anything about its shape, texture, taste or use in the kitchen. Of course crime is not just an effect of inequality, it is also something well-to-do people can engage in. Criminal behaviour also implies a moral choice, and whether or not they have a poor socio-economic position or are poorly educated, criminals are generated by the opportunity—and crime generates victims.

What holds true for Jongman also holds true for many empirical crime researchers. In their embrace of the variables paradigm, many empiricists reduce the comprehensive meaning of criminal behaviour. This often makes their contribution to the debate on crime quite limited or overly obvious. Reducing unemployment, Jongman's only real remedy, is also a point on all the political party agendas. And who could possibly be against the social integration of ethnic minority youngsters? The urgency of the crime problem does however also require insight into its other cultural meanings and the political questions that emerge as a result.

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[6] On the occasion of its 25th anniversary in 1994, the Criminology Institute at the University of Groningen published a survey of the results of its critical research programme.

[7] This notion is known as Merton's strain theory (1949).

[8] This position is defended by Van Dijk (1985), who explicitly examines the policy relevance of various criminology theories. He finds the control theory formulated by Hirschi (1969) to be the most appropriate one.

Social administration specialist Ringeling (1993, p. 249) notes that "policy is much more about attributing meanings to concepts and phenomena than about the facts to be examined". Quoting Van de Vall, he adds that "methodological hardness" does not play any role in the application of insights derived from a study. Crime policy is only formulated in part on the basis of *true* research results. Frissen (cited in Ringeling 1993, p. 229) goes one step further and states that in formulating policy, the state makes use of taboos, metaphors and myths, and policy abounds with rhetoric and ritual statements. Policy, and this certainly holds true of criminal policy, can be academically informed but in the end it has to do with power relations, the media, the sense of right and wrong, the interests of the state and so forth.

Research results constitute only one of the multifarious arguments. This does not make criminological research irrelevant, but its importance does remain relative. It is the political context that determines the importance of criminology. It has not produced any *truths* on crime and is not likely to in the future, despite the presumptions of *empirical criminology*. There are too many sides to the phenomenon itself, and it is too sensitive to economic fluctuations. Criminology is not only subject to changes in the meanings of crime and punishment, criminology itself is part and parcel of the signification field surrounding them. This is why it requires permanent self-reflection. Criminology is no more and no less than a systematic reflection on crime and the response to it. Theoretical, empirical and ethical insights all play a role.

## Scope of criminology

Given the restrictions criminology is faced with—cultural sensitivity and political expedience—the question arises as to the range of its programme. The "systematic reflection on crime and the response to it" can and does go in any number of directions.[9] In a special issue of the *British Journal of Criminology*, Garland and Sparks (2000) note that academic criminology no longer has the sole right to the crime problem.[10] It shares the input to the field with other disciplines, the policy world and culture, e.g. the media. There have been radical changes in recent decades in the criminology environment. The criminal has simply become too important to leave to the criminologist.

Garland and Sparks describe the emergence and development of criminology ever since the end of the nineteenth century as "empathetically modernist", in other words as fitting in with the faith in progress characterizing the twentieth century. Crime is viewed as a social problem, and explained on the basis of various forms of

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[9] Cf. the definition given by Garland and Sparks (2000, p. 192): "Criminology, in its broadest sense, consists of our organized ways of thinking about crime, criminals and crime control."

[10] Garland and Sparks (2000) note that although criminology is flourishing at British universities, its political influence is limited.

deprivation—economic, educational or in the upbringing or treatment of children. "The solution to crime is a welfare solution." The specific form of deprivation that plays a central role can differ from one author to the next but "... there never was a right-wing criminology" (Garland and Sparks 2000, p. 195).[11] "More welfare state" is the standard answer of this welfare criminology.

This welfare approach is long past its peak; the political and social conditions surrounding criminology have undergone drastic changes. Mass consumption, globalization, the multicultural society, secularization processes, the rise of the commercial media—these are the terms the new concept of crime is couched in. Moreover, radically different social relations have developed in recent decades based on new freedoms and individual potentials. They have led in turn to new ways of violating the law and new forms of criminality. High crime rates and avoidance mechanisms have become "organizing principles of everyday life" (Garland and Sparks 2000, p. 199). They have drastically changed the meaning of crime and criminal justice.

Faith in the criminal justice system has declined and new forms of control have been called for. Punitive sentiments, attention for victims, protection of the public domain and increased control now shape the crime complex of attitudes, conceptions and practices around crime. It is not a lack of prosperity but a lack of control that is the bottom line in today's approach to security. In this new political culture, Garland and Sparks (2000, p. 201) do not feel welfare criminology is apt to exert much influence. All this faces the criminologist with some very serious problems. Should he go along with the demands of the "new regulatory state" (Braithwaite 2000), or stick to a critical welfare position?

If the question is put this way, I don't think there is any way it can be answered. If it is to exert any influence, criminology will have to deal by definition with political expedience and cultural sensitivity. That is its weakness, but it is also its strength. Because of its politically sensitive subject matter and its multidisciplinary nature, criminology is in a good starting position to join in the discussion on society's design. This was still very much the case in the 1970s, though there were fewer and fewer people listening. Its points of departure outlived their usefulness and were barely relevant in the changing context.

According to Garland and Sparks, contemporary criminology ought to focus more on how crime is perceived, represented and regulated. The present-day practice of criminology has largely been pacified and the grand visions of the future have been replaced by eclectic and pragmatic programmes.[12] This transition can

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[11] In the same theme issue, Braithwaite refers to this criminology as Keynesian; it fits in with the structure of the welfare state. For the rest, J. Q. Wilson can be viewed as a right-wing criminologist. Back in the 1970s, he was already defining crime as morally reprehensible behaviour and wished to focus policy on this aspect.

[12] "The opposition between (i) a criminology that is interested in social and political theory, in the reflexive sociology of criminological knowledge, and in the testing or transgression of disciplinary boundaries and (ii) a criminology that has empirical bite and strategic relevance—is an opposition that can no longer be sustained" (Garland and Sparks 2000, p. 191).

be substantiated by a 1993 special issue of the *Journal of Research in Crime and Delinquency*. On its thirtieth anniversary, the journal invited five leading criminologists to write an essay on "the future of research in crime and delinquency". The five authors, John Braithwaite, Marcus Felson, Joan McCord, Robert Sampson and Lawrence Sherman, exhibited enormous differences. The essays were presented to nine other criminologists.

One prevailing feature of the essays and the responses to them is the departure from the grand theories and presumptions of explanatory criminology. In the words of grand old man A. J. Reiss (p. 506), "Would not considerable progress be made if criminologists ceased explaining crime and criminality?" Although criminology, like every social science, should be seen as a house with many windows, it is striking that the principles of the theoretical differences of the 1970s have been relegated to the background. None of the authors make any effort to put the crime question into a proper perspective, and none of them claim a paradigmatic sole right. In general the authors continue to believe in the social science assignment, which is to contribute towards the design of modern society,[13] but they are less clear when it comes to an unambiguous explanation of crime. The theoretical palette is more varied and its use more pragmatic.

## Strategic science

The pragmatic nature of contemporary criminology has one serious disadvantage. There is a great deal of reticence as regards the big picture of the safety issue. It seems as if the failure of the welfare criminology of the 1970s has taken the guts out of the practice of criminology. This seems to be especially the case in the Netherlands.

I think the recent reticence of criminologists to pose fundamental questions on crime and safety has to do with their failure to acknowledge the normative nature of their subject matter, i.e. violations of criminal justice norms and the response to them. Yet their subject matter is embedded by definition in a whole set of moral meanings. This is confirmed in the legal normative terms legitimating society's sanctioning of the criminal event. From this perspective, in addition to being viewed as a technical issue, the crime problem is also a political strategic one. It is related to individual choices as well as to political responsibilities.

The *truth* observed by the social scientist, in this case the criminologist, is supposed to be unrelated to moral and cultural considerations. Crime and punishment are however inextricably linked to the meanings attached to this truth. The meanings are psychologically motivated and embedded in a specific cultural context. There is very little interest in the Netherlands in the philosophy or sociology of punishing.[14] The strategic questions having to do with crime and safety are left to

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[13] Or as Bauman put it, to generate *responsible speech* (1990, p. 6).
[14] See for example the overview by Duff and Garland (1994).

the world of politics and policy and to the growing group of advisors, particularly commercial advisors.

In the abovementioned special issue of the *Journal of Research in Crime and Delinquency*, Braithwaite draws a comparison with a research field like International Studies. His article is called *Beyond Positivism*. Without precisely defining its positivist aspect, he describes criminology research as focused on short-term politics and as decontextualizing. In its stead, Braithwaite proposes an integrated approach to the question of crime. International Studies derives its strength from its contextual orientation, i. e. the analysis of integrated policy programmes in their historical context. He feels that integral policy, contextual analysis, a dynamic instead of a static concept of reality, and a combination of normative and explanatory theories ought to be the ingredients of a relevant criminology.

Theories should be detached from their presumption of truth and should be viewed as metaphors of reality. Criminologists ought to be looking for strategies instead of explanations. Braithwaite's criminology programme contains five points: take criminology theory seriously as a set of metaphors for reality; evaluate the usefulness, albeit limited, of the research results of positivist criminology; stimulate contextual and historical comparisons; develop combined research groups of academics and policy makers; concentrate on integrated dynamic strategies instead of static explanatory models.

After the inspiration and enthusiasm of the 1970s. criminology seems to have gotten completely bogged down in a technical, control-focused approach to the safety issue. This is why there is now the danger of it getting caught up in the utopian desires related to safety. Wolfe (1989) notes that in a pluralist society where the ethic of obligation has made way for a pluralist and individualized morality, the social sciences, no matter how value free they might be, have nonetheless come to provide moral and political guidelines. Criminology does not seem to be very conscious of this special position.

## The criminologist as intellectual

I think it would be wise to continue now with a brief digression on the intellectual position of the criminologist who cares about the urgency of the safety issue. As a discipline concerned with political strategy, criminology can contribute much more to the public debate on crime and safety than is now the case. Its input need not solely consist of explanations for crime, which are ultimately always disappointing. Criminologists should devote more time and attention to more explicitly stipulating the choices that are or can be made in this connection. For this purpose, criminologists ought to take more pride in their intellectual position.

It should be kept in mind that the position of the intellectual has generally undergone drastic changes in the past few decades. Under postmodern conditions, the intellectual now operates more as a revealer of implicit meanings than a spokesman

for truth and honesty.[15] For almost a century, *J'accuse!* was the motto of the intellectual. Author Emile Zola began his open letter denouncing the unjust exile of Alfred Dreyfus, a captain in the French army, with these words. Numerous other academics, artists and prominent Parisian thinkers followed in his wake. Their conduct in the Dreyfus Affair was something intellectuals could be proud of.

So on behalf of truth, the committed intellectual went into the protest mode, he was against oppression, complacency, indolence, the establishment, in short against inauthenticity. The basic aim of everything he did was to reveal the truth. But can you be *against* one thing without being *for* something else? The intellectual has always grappled with this matter of distance and/or commitment. Many contemporary intellectuals, or at any rate people who still think of themselves as such, prefer to either go through life in their own modest way or play the role of commentator or columnist. As regards issues of crime and punishment, this might well result now and then in an aggrieved but nonetheless noncommittal tone that characterizes the independent commentator.

In *De rol van de intellectueel* (The Role of the Intellectual, 1992), an anthology by Lolle Nauta et al., the position of the contemporary intellectual is analysed. If he is no longer the messenger of truth, then what is he? The authors attribute him with any number of new functions. He builds up democracy, bridges various modes of thinking, invents new meanings for old words or new words for old meanings, and exhibits a distinctive lifestyle or erudition. The intellectual identity has apparently been transformed into multifarious options, but is reserved, according to Nauta et al., for free spirits.

In adition, the scientific intellectual has withdrawn to his own research topics. He has become a specialist who is often barely concerned with the societal meaning of his research subject and findings. The question however is whether this kind of division of the minds is still functional. In addition to the intellectual free spirit (*the columnist*) and the specialized academic (*the scientist*), a third category of intellectuals has emerged that focuses on the strategic questions of politics and policy. The official apparatus is now filled with well-educated men and women who constitute their own relevant category.[16] They are, after all, the ones who largely shape the design of the state and society.

This world of official strategists, policy advisors, scholars of the future and authors of scenarios is becoming ever larger and more powerful. Garland rightly notes that criminology is no longer restricted to the universities.[17] The "secular priests in service of the state", as Noam Chomsky calls them in his Johan Huizinga lecture in 1977, tend to distance themselves from their intellectual status. They are

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[15] In his dissertation, Gabriëls (2001) uses this distinction between the traditional and the postmodern intellectual.

[16] Approximately 10% of the 500,000 civil servants in the Netherlands have a university education. Reasons of principle often play an important role in motivating them to work for the government (Van der Meer and Roborgh 1993).

[17] Cf. Foucault's concept of governmentality (article posthumously published in 1991), which he uses to refer to the new steering position of the state.

at risk of *officializing* within the Weberian criteria of the bureaucracy—efficiency and effectiveness.[18] But they are not often addressed by the outside world on the basis of their intellectual position. And if they do allow themselves to act upon it, it is not apt to be appreciated.

It is precisely this growing academic specialization in various fields including criminology that makes it necessary to add a certain element of intellectual coherence now and then. "All these little pieces of knowledge, bits of cultures, moral or political riddles and clashing sub-problems ultimately need to be assessed and carefully classified." Here, Groot (2001, p. 127) feels, lies the intellectual function or our times: less imperialistic, no longer militant in its claim to truth, but as object of the desire for coherence, be it only temporary. In Groot's view, while the specialist concerns himself with *what is*, intellectuals focus on *what is not* or *what ought to be*.

With the demise of critical criminology in the 1970s, its intellectual presumptions also seem to have faded away. This criminology of revealing and rejecting was defeated by the reality and urgency of the crime problem. In response, the intellectual reflection on crime and punishment seems to have narrowed into specializations and into empirical research according to the "variable paradigm." The formulation of coherence and desirability is left to others. It mainly occurs in strategic policy making or outside the world of criminology. The field of criminology could be more important if it were aware of its intellectual potency.[19]

## Justification and justice

I think I would be justified in describing the contemporary practice of criminology in terms of *eclectic pragmatism*. Pragmatic in the sense that criminology mainly focuses on research that bears some relevance to policymaking in the framework of crime control, and eclectic because of its free way of dealing with multifarious theoretical points of departure. In this kind of eclectic pragmatism, the antithesis between criminology that is focused on control and criminology that is critical of society would seem to have been resolved. In view of the pressure exerted by the crime problem on Western societies, it seems only inevitable that criminology should have taken this pragmatic turn. It is good that it contributes towards the sub-questions of the problem. As a safety issue, crime is however increasingly approached in strategic terms, and this is not something present-day criminology can make much of a contribution to.

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[18] This similarly holds true for the world of politics, where there are ever more debates on efficiency and effectiveness. The policy justification required by the Lower Chamber of the Dutch Parliament in the month of May of the fiscal year is dominated by the settlement of accounts for the services performed.
[19] For example via the new criminology study programme at the universities of Rotterdam and Leiden and the Vrije University in Amsterdam.

In this connection, the suggestion made by Braithwaite (1993) that criminology be more compared with a field like International Studies, where moral considerations, political principles and empirical findings are integrated into a reflexive policy science, should be given serious thought. In the years of great expectations regarding *science*, political differences were formulated in objectivist terms. Paradoxically enough, this greatly politicized the social sciences and certainly criminology. Now that the presumptions of truth have been reduced, there is more academic space for an analysis of the grounds justifying safety policy.

Much of criminology research is however conducted *within* the parameters indicated by policy. In addition to this pragmatic foundation of crime policy, a greater emphasis on the *justification and justice* of the selected strategy is called for. A strategy has a certain aim and is conducted within a certain political framework. The important thing here is not so much the epistemological value of criminological policy research, but the ethics of political policy premises as a research topic. The present-day normative turn in the discussion on the crime problem and the growing recognition of the moral nature of social science reinforce the importance of this view.[20] I don't think an updated critical position in criminology is ill-disposed to crime policy, but it should be focused on its nature and even more so on its range.

The contemporary crime problem presents itself against the background of huge transformations in society. Crime policy and the enforcement of criminal justice play a realistic role—in the sense of legitimate but restricted—in the wider redefining of the welfare state that is going on at the moment. In addition to pragmatism, in my opinion research into the justification and justice of crime policy strategies should be shaping more of the criminology agenda. I have tried to supplement this agenda with a diagnosis of a culture where crime has been redefined into a safety issue.

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[20] There is a pressing need in the Netherlands for an institute where strategic issues in the field of national safety can be studied.

# REFERENCES

Achterhuis, H.: *De erfenis van de utopie*. Amsterdam, Ambo, 1998

Adorno, T.W.: *The Authoritarian Personality*. New York, Harper & Brothers, 1950

Azzougarh, M. (chairman): *Samen vol vertrouwen de toekomst tegemoet; perspectieven voor de Marokkaanse jeugd in Nederlandse samenleving in de XXI eeuw*. Utrecht, Moroccan Youth Commission, 1998

Barkan, E.: *The Guilt of Nations; Restitution and Negotiating Historical Injustices*. New York, Norton, 2001

Bauman, Z.: *Modernity and the Holocaust*. Cambridge, Polity Press, 1989

Bauman, Z.: *Thinking Sociologically*. Oxford (UK)/Cambridge (USA), Blackwell, 1990

Bauman, Z.: *Postmodern Ethics*. Oxford (UK)/Cambridge (USA), Blackwell, 1993

Bauman, Z.: *Postmodernity and its Discontents*. Cambridge, Polity Press, 1997

Bauman, Z.: *Communities; Seeking Safety in an Insecure World*. Cambridge, Polity Press, 2001

Baumeister, R.: *Evil; Inside Human Cruelty and Violence*. New York, Freeman, 1997

Bazemore, G. & L. Walgrave (eds): *Restorative juvenile justice: repairing the harm of youth crime*. Monsey; New York, Criminal Justice Press, 1999

Beck, U.: *Risikogesellschaft; auf dem Weg in eine andere Moderne*. Frankfurt on Main, Suhrkamp, 1986

English translation: *Risk Society; Towards a New Modernity* London, Sage Publications, 1992

Beke, B.M.W.A., W.J.M. de Haan et al.: *Geweld verteld; daders, slachtoffers en getuigen over 'geweld op straat'*. The Hague, Research and Documentation of the Ministry of Justice, 2001 (research memorandum)

Bellamy, E.: *Looking Backward 2000–1887*

Berg, P. van den & G. van Oenen: Ethiek van erkenning; interview met Axel Honneth. *Krisis*, no. 77, 1999, pp. 24–36

Berger, J.: *Calling out; Living the Last Three Years; A View*

Blokland, A.A.J.: Evolutionaire criminologie. *Tijdschrift voor criminologie*, vol. 43, no. 1, 2001, pp. 82–88

Boutellier, H.: *Solidariteit en slachtofferschap; de morele betekenis van criminaliteit in een postmoderne cultuur* (Ph.D. dissertation). Nijmegen, SUN, 1993

Boutellier, H.: Criminologie van de toekomst; een literatuurverkenning. In: M. Aalberts, H. Boutellier et al. (eds), *Rechtsverzorging en wetenschap; een plaatsbepaling van het WODC bij het afscheid van J. Junger-Tas.* Arnhem, Gouda Quint, 1994, pp. 39–48

Boutellier, H.: Het geëmancipeerde slachtoffer; een nadere beschouwing over solidariteit en slachtofferschap. In: M. Moerings (ed.), *Hoe punitief is Nederland?* Arnhem/Utrecht, Gouda Quint/Willem Pompe Institute, 1994, pp. 195–211

Boutellier, H.: Overheidspessimisme/optimisme; over de normatieve conditie van openbaar bestuur. *Openbaar bestuur*, vol. 5, no. 11, 1998, pp. 2–4

Boutellier, H.: De toekomst van Justitie in de buurt. *Tijdschrift voor de sociale sector*, vol. 53, no. 7/8, 1999, pp. 10–13

Boutellier, H. De veiligheidsutopie; contouren van strafrechtelijk beleid *Recht der werkelijkheid*, vol. 20, no. 3, 1999, pp. 23–40

Boutellier, H.: Het geluid van stille marsen; de maatschappelijke betekenis van burgerinitiatieven tegen geweld. *Tijdschrift voor criminologie*, vol. 42, no. 4, 2000, pp. 317–333

Boutellier, H. Crime and Morality; the Moral Significance of Criminal Justice in Postmodern Society Dordrecht, Kluwer Academic Publishers, 2000

Boutellier, H.: The Convergence of Social Policy and Criminal Justice. *European Journal on Criminal Policy and Research*, vol. 9, no. 4, 2001, pp. 361–380

Boutellier, H., H. Kunneman et al.: *De straf voorbij; morele praktijken rondom het strafrecht*. Amsterdam, SWP, 2001

Boutellier, H. & L. van der Linden: *Criminaliteit en heropvoeding; een strijd om de verbeelding*. Amsterdam, Vrije University, 1980 (Master's thesis)

Boutellier, H. & B. van Stokkom: Consumptie van veiligheid; van verzorgingsstaat tot veiligheidsstaat. *Justitiële verkenningen*, vol. 21, no. 5, 1995, pp. 96–112

Bovens, M. & A. Hemerijck (eds): *Het verhaal van de moraal; een empirisch onderzoek naar de sociale bedding van morele bindingen*. Amsterdam, Boom, 1996

Braithwaite, J.: Beyond Positivism; Learning from Contextual Integrated Strategies. *Journal of Research in Crime and Delinquency*, vol. 30, no. 4, 1993, pp. 383–399

Braithwaite, J.: The New Regulatory State and the Transformation of Criminology. *British Journal of Criminology*, vol. 40, no. 2, 2000, pp. 222–239

Brink, G. van den: *Geweld als uitdaging; de betekenis van agressief gedrag bij jongeren*. Utrecht, NIZW, 2001

Bruinsma, G.J.N., H.G. van de Bunt & I. Haen Marshall: *Met het oog op de toekomst; verkenning naar de kennisvragen over misdaad en misdaadbestrijding in 2010*. The Hague, Advisory Council on Science and Technology Policy, 2001

Buruma, I.: Victimalisering van het strafrecht. In: M. Moerings, *Hoe punitief is Nederland?* Arnhem/Utrecht, Gouda Quint/Willem Pompe Institute, 1994, pp. 211–237

Check, J. & K. Maxwell: *Children's Consumption of Pornography and their Attitudes Regarding Sexual Violence*. Paper presented at the Canadian Psychological Association Meeting, Quebec, June 1992

Cohen, S.: *Folk Devils and Moral Panics* (1973). London, Paladin, 1980

Creveld, M. van: The Rise and Decline of the State. Cambridge (Mass.), Cambridge University Press, 1999

Criminalisering (theme issue). *Justitiële verkenningen*, vol. 26, no. 5, 2000, pp. 5–95

*Criminaliteit in relatie tot de integratie van etnische minderheden* (CRIEM memorandum). The Hague, Ministries of Justice and Foreign Affairs, 1997

*Criminaliteitsbeheersing; investeren in een zichtbare overheid*. The Hague, Ministries of Justice and Foreign Affairs and Royal Relations, 2001

Crombag, H. & F. van Dun: *De utopische verleiding*. Amsterdam/Antwerp, Contact, 1997

Cuperus, R.: Heimwee naar het CDA. *Socialisme & democratie*, vol. 53, 1996, pp. 198–201

*De georganiseerde criminaliteit in Nederland; dreigingsbeeld en plan van aanpak*. The Hague, Ministries of Justice and Foreign Affair, 1992

Deichmann, T. & S. Reul: Hartstocht voor het reële. *De Groene Amsterdammer*, 8 December 2001

Dessaur, C.I. & L. Gunther Moor: WRR Report 1977

Dijk, J.J.M. van: Beleidsimplicaties van criminologische theorieën en implicaties van beleid voor criminologische theorie. *Tijdschrift voor criminologie*, vol. 27, no. 4, 1985, pp. 320–345

Dijk, F. van, M.M. Kommer et al. (eds): *Justitie over morgen; een strategische verkenning*. The Hague, Ministry of Justice (DAJS), 2001

Dijk, F. van & J. de Waard: De markt voor private opsporing; vraag en aanbod. *Justitiële verkenningen*, vol. 27, no. 4, 2001, pp. 25–42

Douglas, M.: *Natural Symbols; Explorations in Cosmology*. Harmondsworth, Penguin, 1973

Duff, A.: *Punishment, Communication and Community*. Oxford, Oxford University Press, 2000

Duff, A. & D. Garland (eds): *A Reader on Punishment*. Oxford, Oxford University Press, 1994

Durkheim, E.: *De la division du travail social* (1893). Paris, PUF, 1978

Duyvendak, J-W.: *De planning van ontplooiing; wetenschap, politiek en de maakbare samenleving*. The Hague, SDU, 1999

*Effectieve strafrechtelijke interventies; handleiding*. The Hague, Ministry of Justice, 2001

Elias, N.: *Über den Prozess der Zivilisation; soziogenetische und psychogenetische Untersuchungen* (1939). English translation: *The Civilizing Process* ZOEK OP WAAR EN DOOR WIE HET IN HET ENGELS GEPUBLICEERD IS

Ericson, R. & K. Haggerty: *Policing the Risk Society*. Toronto, University of Toronto Press, 1997

Erpecum, I. van: *De stille revolutie; verhalen van Justitie in de buurt*. The Hague, Ministry of Justice, 2000

Evers, A. & H. Nowotny: *Über den Umgang mit Unsicherheit; die Entdeckung der Gestaltbarkeit von Gesellschaft*. Frankfurt on Main, Suhrkamp, 1987

Ewald, F.: Die Versicherungs-Gesellschaft. In: U. Beck (ed.), *Politik in der Risikogesellschaft*. Frankfurt on Main, Suhrkamp, 1991

Felson, M. & L. Cohen: Human Ecology; A Routine Activity Approach. *Human Ecology*, vol. 8, no. 4, 1980, pp. 389–406

Feinberg, J.: Doing and Deserving; Essays in the Theory of Responsibility. Princeton, Princeton University Press, 1970

Ferwerda, H. & B. Beke: *Twaalfstedendebat geweld op straat; hoofdlijnen en suggesties voor beleid*. Arnhem/Middelburg, Beke, 1998

Film- en videogeweld (theme issue). *Justitiële verkenningen*, vol. 23, no. 3, 1997, pp. 5–106

Finkelhor, D.: *Child Sexual Abuse; New Theory and Research*. New York, Free Press, 1984

Finkelkraut, A.: *L'Humanité perdue* (1997)

Foqué, R.: Beginselen van behoorlijk argumenteren. In E.T. Feteris et al. (ed.), *Met redenen omkleed*. Nijmegen, Ars Aequi, 1994, pp. 9–22

Foqué, R. & I. 't Hart: *Instrumentaliteit en rechtsbescherming*. Arnhem, Gouda Quint, 1990

Foucault, M.: *Surveillir et punir; la naissance de la prison*. Paris, Editions Gallimar, 1975

Foucault, M.: *Histoire de la sexualité* (1976)

Foucault, M.: *Histoire de la sexualité* (1984)

Foucault, M.: Governmentalism. In: G. Burchall, C. Gordon et al. (eds), *The Foucault Effect; Studies in Governmentality*. London, Harvester Wheatsheaf, 1991

Franke, H.: Links! *De Groene Amsterdammer*, 21 January 1998

Franke, H.: *Twee eeuwen gevangen; misdaad en straf in Nederland* (Ph.D. dissertation). Utrecht, Het Spectrum, 1990

Freud, S.: *Das Unbehagen in der Kultur* (1930). Ned. vert. *Het onbehagen in de cultuur* Amsterdam, Boom Meppel, 1984

Furedi, F.: *Culture of Fear; Risk Taking and the Morality of Low Expectations*. London, Cassell, 1997

Gabriëls, R.: *Intellectuelen in Nederland; publieke controversen over kernenergie, armoede en rushdie*. Amsterdam, Boom, 2001

Garland, D.: *Punishment and Welfare; A History of PenalSstrategies*. Brookfield, Heineman/Gower, 1985

Garland, D.: *Punishment and Modern Society; A Study in Social Theory*. Oxford, Clarendon Press, 1990

Garland, D.: The Limits of Sovereign State; Strategies of Crime Control in Contemporary Societies. *British Journal of Criminology*, vol. 36, no. 4, 1996, pp. 445–471

Garland, D.: *Culture of Control; Crime and Social Order in Contemporary Society*. Oxford, Oxford University Press, 2001

Garland, D. & R. Sparks: Criminology, Social Theory and the Challenge of our Times. *British Journal of Criminology,* vol. 40, no. 2, 2000, pp. 189–204

Nauta, L. (ed): *De rol van de intellectueel*. Amsterdam, Van Gennep, 1992

Gevecht om het publieke domein (theme issue). *Justitiële verkenningen,* vol. 27, no. 1, 2001, pp. 5–122

Giddens, A.: *The Consequences of Modernity*. Cambridge, Polity Press, 1990

Giddens, A.: *The Transformation of Intimacy; Sexuality, Love and Eroticism in Modern Society.* Cambridge, Polity Press, 1992

Ginkel, A.: van: Politiek in prentvorm. *De Groene Amsterdammer*, 2 February 2002, pp. 38–39

Goris, P.: Jib; enkele kritische beschouwingen. *Tijdschrift voor de sociale sector*, vol. 53, no. 7/8, 1999, pp. 14–15

Groot, G.: Intellectuelen schaken. *De Groene Amsterdammer*, 25 augustus 2001, pp. 24–27

Gruyter, C. de: 'Soldaten moeten politieagenten worden'. *NRC-Handelsblad*, 15 September 2001, p. 33

Hardt, M. & A. Negri: *Empire.* Harvard, Harvard University Press, 2000

Hart, A.C. 't: Straf, recht en waarden. In: M. Moerings, *Hoe punitief is Nederland?* Arnhem/Utrecht, Gouda Quint/Willem Pompe Institute, 1994, pp. 3–45

Hart, I. 't: *Over strafrecht, Openbaar Ministerie en multiculturalisme*. Arnhem, Gouda Quint, 2001

Hawkins, J.D.: Preventing Crime and Violence through Communities that Care. *European Journal on Criminal Policy and Research*, vol. 7, no. 4, 1999, pp. 443–458

Heijden, C. van der: *Hemel, hel of heden; een kleine geschiedenis van het jaar 2000*. Schoorl, Conserve, 1993

Heinrich, J.P.: *Particuliere reclassering en overheid in Nederland sinds 1823*. (Ph.D. dissertation) Arnhem, Gouda Quint, 1995

Hellemans, S.: Marginaal; volksoproer in België; op zoek naar een interpretatiekader. *Sociologische gids*, vol. 45, no. 5, 1998, pp. 282–289

Hirsch, A. Von: *Doing Justice; The Choice of Punishments*. New York, McGraw Hill, 1976

Hirsch Ballin, E.M.H.: *In ernst; oriëntaties voor beleid; gebundelde toespraken*. The Hague, SDU, 1994

Hirschi, T.: *Causes of Delinquency*. Berkeley, University of California Press, 1969

Hoffman, M.L.: *Empathy and Moral Development; Implications for Caring and Justice*. Cambridge, Cambridge University Press, 2000

Hooghe, M.: De witte mobilisatie in België als moral crusade; de vervlechting van emotie en politiek. *Sociologische gids*, vol. 45, no. 5, 1998, pp. 289–310

Hoop Scheffer, J. de: Recht op veiligheid is een grondrecht. *NRC-Handelsblad*, 27 February 2001

Hughes, G.: *Understanding Crime Prevention; Social Control, Risk and Late Modernity*. Buckingham, Open University Press, 1998

Hughes, G., McLaughlin et al. (eds): *Crime Prevention and Community Safety; New Directions*. London, Sage/The Open University, 2002

Hughes, R.: *The Culture of Complaint* (1993)

Huls, N.J.H. (ed.): *Sturing in de risicomaatschappij*. Zwolle, Tjeenk Willink, 1992

Huls, F.W.M., M.M. Schreuders et al.: *Criminaliteit en rechtshandhaving 2000; ontwikkelingen en samenhangen*. The Hague, Statistics Netherlands/Research and Documentation Centre of the Ministry of Justice, 2001

Ignatieff, M.A.: *A Just Measure of Pain*. London, Macmillan, 1978

Jameson, F.R.: *The Cultural Turn; Selected writings on the Postmodern*. London, Verso, 1998

Jongman, R.: Waarheid en geldigheid in de criminologie. *Nieuws voor criminologen*, vol. 1, no. 1, 1989, pp. 8–11

Junger-Tas, J. & J.N. van Kesteren: *Bullying and Delinquency in a Dutch School Population*. The Hague, Kugler Publications, 1999

*Justitie op maat aanwezig; de toekomst van Justitie in de buurt*. The Hague, Ministry of Justice (DPJS), 1999 *Addendum*. The Hague, Ministry of Justice (DPJS), 2000

Kalma, P.: De risicomaatschappij: schrikbeeld of ideaal. In: Huls, N.J.H. (ed.), *Sturing in de risicomaatschappij,* Zwolle, Tjeenk Willink, 1992, pp. 209–217

Kalmthout, A. van: *'Si non solvit in opere . . . '; bijdragen over de geschiedenis en ontwikkeling van onbetaalde arbeid als strafsanctie* (Ph.D. dissertation). Nijmegen, Wolf Legal Publishers, 2001

Koekoek, A.: Veiligheid verdient plaats in de Grondwet. *NRC-Handelsblad*, 9 March 2001

Koenis, Sj.: *Het verlangen naar gemeenschap; over moraal en politiek in Nederland na de verzuiling*. Amsterdam, van Gennep, 1997

Komter, M.: Moraal en dwang in de rechtszaal. *Tijdschrift voor criminologie*, vol. 36, no. 3, 1994, pp. 199–217

Kooiman, J.: *Modern Governance; New Social-Governmental Interactions*. London, Sage, 1993

Krol, G.: De ondraaglijke lichtheid van sommige straffen. In: *Grenzen tussen goed en kwaad; 13 essays over preventie, misdaad en straf in de 21ᵉ eeuw.* The Hague, Ministry of Justice, 1998, pp. 81–91

Kuitenbrouwer, F.: Veiligheid hoeft geen grondrecht te zijn. *NRC-Handelsblad*, 6 March 2001

Kunneman, H.: *Van theemutscultuur naar walkman-ego; contouren van postmoderne individualiteit*. Amsterdam, Boom, 1996

Kunneman, H.: *Postmoderne moraliteit*. Amsterdam, Boom, 1998

Landelijk platform tegen geweld op straat. *De afzijdigheid voorbij; eindrapport.* The Hague, ZOEK DE UITGEVER, 2001

Lascaris, A.: *Het soevereine slachtoffer; een theologisch essay over geweld en onderdrukking*. Baarn, Ten Have, 1993

Leest, J.: *Rechtvaardigheid & rekenschap; de betekenis van herstelrecht voor de normatieve functie van het strafrecht*. Utrecht, Universiteit voor Humanistiek, 2000 (Master's thesis)

Leest, J.: *Vrijwilligers en Justitie*. The Hague, Ministry of Justice, DPJS, 2000

Lerner, M.: *The Belief in a Just World*. New York, Plenum Press, 1980

Lieb, R.: Social Policy and Sexual Offenders; Contrasting United States' and European Policies. *European Journal on Criminal Policy and Research*, vol. 8, no. 4, 2000, pp. 423–440

Livestro, J.: Stop de misdaad. *Trouw*, 12 January 2002

Loeber, R., N.W. Slot et al. (eds): *Ernstige en gewelddadige jeugddelinquentie; omvang, oorzaken en interventies*. Houten/Diegem, Bohn Stafleu van Loghum, 2001

Lyotard, J-F.: *La condition postmoderne; rapport sur le savoir* (1979)

Mannozzi, G.: *From the 'Sword' to Dialogue; Towards a 'Dialectical' Basis for Penal Mediation*. Paper presented on the Fourth International Conference on Restorative Justice for Juveniles, Tübingen, 2000

Margalit, A.: *The Decent Society*. Cambridge (Mass.)/London, Harvard University Press, 1996

Martinson, R.: What Works? Questions and Answers about Prison Reform. *Public Interest*, vol. 35, no. 1, 1974, pp. 22–54

Matza, D.: *Becoming Deviant*. Englewood Cliffs (N.J.), Prentice Hall, 1969

McAdam, D.: Micromobilisation Contexts and the Recruitment to Activism. In: B. Klandermans et al. (eds), *From Structure to Action*, Greenwich, JAI Press, 1988, pp. 125–154

Meer, F.M. van der & L.J. Roborgh: *Ambtenaren in Nederland; omvang, bureaucratisering en representativiteit van het ambtelijk apparaat*. Alphen on Rhine, Samson (?), 1993

Merton, R.K.: *Social Theory and Social Structure*. Glencoe, Ill, Free Press, 1949

Miers, D.: *An International Review of Restorative Justice*. London, Home Office (RDS), 2001

Miers, D., M. Maguire et al.: *An Explanatory Evaluation of Restorative Justice Schemes*. London, Home Office (RDS), 2001

Montfoort, A. van: *Het topje van de ijsberg; kinderbescherming en de bestrijding van kindermishandeling in sociaal-juridisch perspectief* (Ph.D. dissertation). Utrecht, SWP, 1994

Montfrans, G.W. van (chairman): *Met de neus op de feiten; aanpak jeugdcriminaliteit*. The Hague, Ministry of Justice (DJJ & R), 1994

Moraal en fatsoen (theme issue). *De helling*, vol. 12, no. 1, 1999

Mooij, A.: *Psychiatrie, recht en de menselijke maat; over verantwoordelijkheid*. Amsterdam, Boom, 1998

Morrison, B.: *As If.* London, Granta Books, 1997

Munters, R. (ed.): *Zygmunt Bauman; leven met veranderlijkheid, verscheidenheid en onzekerheid.* Amsterdam, Boom, 1998

Nauta, L. (ed.): *De rol van de intellectueel*. Amsterdam, Van Gennep, 1992

Peper, B., F. Spierings et al.: *Bemiddelen bij conflicten tussen buren; een sociaal-wetenschappelijke evaluatie van experimenten met Buurtbemiddeling in Nederland*. Delft, Eburon, 1999

Piret, J.M.: Veiligheid en rechtsstatelijkheid; rechtsfilosofische en ideeënhistorische beschouwingen. *Delikt & delinkwent*, vol. 30, no. 1, 2000, pp. 31–49

Polak, E.: De zin van verdrietverwerking. *De Groene Amsterdammer*, 6 May 2000, pp. 15–16

Polder, W. & F.J.C. van Vlaardingen: *Preventiestrategieën in de praktijk; een meta-evaluatie van criminaliteits-preventieprojecten*. Arnhem, Gouda Quint, 1992

Presdee, M.: *Cultural Criminology and the Carnival of Crime*. London, Routledge, 2000

Private Security (theme issue). *European Journal on Criminal Policy and Research*, vol. 7, no. 2, 1999, pp. 139–288

Raes, K.: Onveiligheid in een normloze wereld. In: G. Andriessen et al. (eds), *Als angst regeert; over politiek en veiligheid*. Amsterdam, De Balie, 1994, pp. 15–36

*Recht in beweging; een beleidsplan voor Justitie in de komende jaren.* The Hague, Ministry of Justice, 1990

Reiss, jr., A.J.: Whither the Craft of Criminology? *Journal of Research in Crime and Delinquency*, vol. 30, no. 4, 1993, pp. 505–513

Ringeling, A.B.: *Het imago van de overheid; de beoordeling van prestaties van de publieke sector*. The Hague, Vuga, 1993

Roermond, G.C.G.J. van, M.S. Groenhuijsen et al.: *Symposium strafrecht; vervolg van een grondslagendebat*. Arnhem, Gouda Quint, 1993

Roethof, H. (chairman): *Interimrapport van de Commissie Kleine Criminaliteit*. The Hague, Staatsuitgeverij, 1984

Roethof, H. (chairman.): *Eindrapport van de Commissie Kleine Criminaliteit*. The Hague, Staatsuitgeverij, 1986

Roos, T.A. de: *Het grote onbehagen; emotie en onbegrip over de rol van het strafrecht*. Amsterdam, Balans, 2000

Rosenthal, U.: Het recht op veiligheid hoort grondwettelijk verankerd te zijn. *NRC-Handelsblad*, 25 February 2000

Rossen, B.: *Zedenangst; het verhaal van Oude Pekela*. Amsterdam, Swets & Zeitlinger, 1989

Rorty, R.: *Contingency, Irony and Solidarity*. Cambridge, Cambridge University Press, 1989

Rorty, R.: Hoofd, hart en mensenrechten. *De Groene Amsterdammer*, 30 June 1993, pp. 8–10

Rorty, R.: *Achieving our Country*

Rothman, D.J.: *Conscience and Convenience; The Asylum and its Alternatives in Progressive America*. Boston, Little Brown, 1980

Rubin, L.: *Erotic Wars*. New York, Farrar, Straus & Giroux, 1990

Ruller, S. van: Biologische, biopsychologische en biosociale benaderingen. In E. Lissenberg, S. van Ruller et al. (eds), Tegen de regels III. Nijmegen, Ars Aequi Libri, 1999, pp. 74–86

Russell, D.: *Dangerous Relationships; Pornography, Misogyny, and Rape*. London/Thousand Oaks, Sage, 1998

Ryan, W.: *Blaming the Victims*. New York, Vintage Books, 1971

*Samenleving en criminaliteit; een beleidsplan voor de komende jaren*. The Hague, Staatsuitgeverij, 1985

Schüler-Springorum, H.: Juvenile Justice and the 'Shift to the Left'. *European Journal on Criminal Policy and Research,* vol. 7, no. 3, 1999, pp. 353–362

Schuyt, C.J.M.: Recht en orde in de verzorgingsstaat; krijgt de samenleving de criminaliteit die zij verdient? *Delikt en delinkwent*, vol. 19, no. 4. 1989, pp. 293–303

Schuyt, C.J.M.: Publiek geweld. *Delikt en delinkwent*, vol. 29, no. 5, 1999, pp. 383–388

Schuyt, K. & M. Kommer: *Niet bij straf alleen; de spanning tussen idealisme en realisme in het reclasseringswerk*. Amsterdam, Amsterdam University Press, 1998

Sennett, R.: *The Erosion of Character; The Personal Consequences of Work in the New Capitalism*. New York/London, Norton, 1998

Sevenhuijsen, S.: *Oordelen met zorg; feministische beschouwingen over recht, moraal en politiek*. Amsterdam/Meppel, Boom, 1996

Sherman, L.W.: Defiance, Deterrence, and Irrelevance: A Theory of the Criminal Sanction. *Journal of Research in Crime and Delinquency*, vol. 30, no. 4, 1993, pp. 445–473

Slama, A.G.: *L'angélisme exterminateur; essai sur l'ordre moral contemporain*. Paris, Grasset, 1993

*Sociaal en cultureel rapport 1998*. Social and Cultural Planning Bureau, Rijswijk, 1999

Stenson, K.: *The New Politics of Crime Control*. In: K. Stenson & R.R. Sullivan, *Crime, Risk and Justice; The Politics of Crime Control in Liberal Democracies*. Cullompton, Willan Publishing, 2001, pp. 15–29

Stokkom, B.A.M. van: Crisis van het medelijden? Empathie en hulp onder postmoderne condities. *Krisis*, vol. 16, no. 1, 1996, pp. 31–43

Stokkom, B.A.M. van: *Emotionele democratie; over morele vooruitgang*. Amsterdam, Van Gennep, 1997

Stokkom, B.A.M. van: Pragmatisch sanctiebeleid; zacht waar het kan, hard waar het moet. *Justitiële verkenningen*, vol. 25, no. 6, 1999, pp. 41–56

Stokkom, B.A.M. van: Werken aan emoties; herstelbemiddeling en de organisatie van schaamte. In: H. Boutellier, H. Kunneman et al., *De straf voorbij; morele praktijken rondom het strafrecht*. Amsterdam, SWP, 2001, pp. 74–88

Strasser, J.: Sicherheit als destructives Ideal. In: *Der Traum der Vernunft; Vom Elend der Aufklärung*. Berlin, Luchterhand, 1986

Sykes, C.: *A Nation of Victims; The Decay of the American Character*. New York, St. Martin's Press, 1992

Symposium on the Future of Research in Crime and Delinquency (theme issue). *Journal of Research in Crime and Delinquency*, vol. 30, no. 4, 1993, pp. 381–533

Terlouw G.J. & W.J.M. de Haan et al.: *Geweld: gemeld en geteld; een analyse van aard en omvang van geweld op straat tussen onbekenden*. Arnhem, Beke Advisory and Research Group, 1999

Thevissen, Fr.: Het commentaar op het commentaar. In: C. Eliaerts (ed.), *Kritische reflecties over de zaak Dutroux*, Brussels, VUB Press, 1997, pp. 97–120

Tonkens, E.: *Het zelfontplooiingsregime; de actualiteit van Dennendal en de jaren zestig*. Amsterdam, Bert Bakker, 1999

Traa, M. van (chairman.): *Inzake opsporing; enquêtecommissie opsporingsmethoden*. The Hague, SDU, 1996

Tulder, F. van: De strafrechtsketen in samenhang. In: F.W.M. Huls, M.M. Schreuders et al., *Criminaliteit en rechtshandhaving 2000; ontwikkelingen en samenhangen*. The Hague, Statistics Netherlands/Research and Documentation Centre of the Ministry of Justice, 2001, pp. 221–249

Tyler, T.: Why Do People Obey the Law. New Haven, Yale University Press, 1990

*Vasthoudend en effectief; een versterking van de aanpak van jeugdcriminaliteit. The Hague, Ministry of Justice, 2002*

*Veelbelovend en effectief; overzicht van preventieve projecten en programma's in de domeinen Gezin, School, Jeugd, Wijk*. First edition, Communities the Care guide Utrecht, NIZW, 2001

Veeris, J.P. (chairman.): *Nèt loke falta; ontbrekende schakels; missing links; advies inzake de aanpak van de criminaliteitsproblematiek onder Antillianen in Nederland*. The Hague, Adviory Commission on Antillean Fellow Citizenship in the Netherlands, 2001

Verrijn Stuart, H.: Via onschuld naar macht; slachtoffers in het strafproces. *Justitiële verkenningen*, vol. 20, no. 2, 1994, pp. 94–115

Verrijn Stuart, H.: Met de mantel voor de ogen; over wraak, vergeving en strafrecht. In: *Grenzen tussen goed en kwaad; 13 essays over preventie, misdaad en straf in de 21e eeuw*. The Hague, Ministry of Justice, 1998, pp. 139–153

Vink, J.: *Brief aan mijn dochter; een tocht door het pandemonium van seks en geweld*. Amsterdam, Meulenhof, 2001

Vijver, C. van der: *De burger en de zin van strafrecht* (Ph.D. dissertation???). Lelystad, Koninklijke Vermande, 1993

Vijver, C. van der: *De tranen van Foucault* (inaugurale lecture). Universiteit Twente, 1998

Waard, J. de: The Private Security Industry in International Perspective. *European Journal on Criminal Policy and Research*, vol. 7, no. 2, 1999, pp. 143–174

Wacquant, L.: The Penalisation of Poverty and the Rise of Neo-Liberalism. *European Journal on Criminal Policy and Research*, 2001, vol. 9, no. 4, pp. 401–412

Walgrave, L.: *Met het oog op herstel; bakens voor een constructief jeugdsanctierecht*. Leuven, Universitaire Pers Leuven, 2000

Walgrave S. & J. Manssens: De Witte Mars als product van de media; de pers als mobilisatiealternatief voor bewegingsorganisaties. *Sociologische gids*, vol. 45, no. 5, 1998, pp. 340–376

Walgrave, S. & B. Rihoux: *De Witte Mars, een jaar later*. Leuven, Van Halewijck, 1997

Walgrave, S. & B. Rihoux: De Belgische witte golf; voorbij de sociologische bewegingstheorie. *Sociologische gids*, vol. 45, no. 5, 1998, pp. 310–340

Weeks, J.: *Sexuality*. London, Tavistock, 1986

*What Works; First Report from the Joint Prison/Probation Accreditation Panel 1999/2000* London, HM Prison Service, 2001

*What Works; Second Report from the Joint Prison/Probation Accreditation Panel 2001* London, HM Prison Service, 2002

Weijers, I.: *Schuld en schaamte; een pedagogisch perspectief op het jeugdstrafrecht*. Houten/Diegem, Bohn Stafleu Van Loghum, 2000

Wildawsky, A.: *Searching for Safety*. New Brunswik, Transaction Publishers, 1988

Wilson, J.Q.: Crime and Public Policy. In: J.Q. Wilson & J. Petersilia (eds), *Crime; Twenty-Eight Leading Experts Look at the Most Pressing Problem of our Time.* San Francisco, ICS Press, 1994, pp. 489–511

Wilson, J.Q.: *The Rediscovery of Character; Private Virtue and Public Policy*. *The Public Interest*, no. 81, 1985

Wolfe, A.: *Whose Keeper? Social Science and Moral Obligation*. Berkeley, University of Pennsylvania Press, 1989

Zijderveld, A.: Wat ging er mis? Anton C. Zijderveld over het christendom in Nederland. *De Groene Amsterdammer*, 17 maart 2001